

CHAPTER 1

CODE OF ORDINANCES

1.01 Title
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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of New London, 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 New London, Iowa.
3. “Clerk” means the city clerk/treasurer of New London, 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 New London, Iowa.
6. “Council” means the city council of New London, Iowa.
7. “County” means Henry County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of New London, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

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

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

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

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

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties of City Officers

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 96 adopting a charter for the City was passed and approved by the Council on July 1, 1975.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties
3.04 Civil Citations

3.05 Alternative Relief
3.06 Criminal Penalties
3.07 Scheduled Municipal Infractions-Penalty-
Procedure-Appeal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.07 SCHEDULED MUNICIPAL INFRACTIONS – PENALTY – PROCEDURE - APPEAL.

1. List of Scheduled Sanctions. The following municipal infractions are subject to the schedule of penalty assessments set forth in paragraph two (2), to wit:

A.	Fireworks	\$41.12
B.	Animal at Large	\$55.06
C.	Dog at Large	\$55.06.1
D.	Annoyance or Disturbance	\$55.08
E.	Sanitation	\$55.09
F.	Pedestrians	\$67.01 et seq.
G.	Parking Regulations	\$69.01 et seq.
H.	All-Terrain Vehicles and Snowmobiles	\$75.01 et seq.
I.	Bicycle Regulations	\$76.01 et seq.
J.	Open Burning	\$105.05
K.	Littering	\$105.07
L.	Waste Storage Container	\$105.10
M.	Prohibited Practice	\$105.11
N.	Placing Debris On	\$135.03

(Subsection 1 – Ord. 51 – Jan. 20 Supp.)

2. Penalties.

A. All municipal infractions involving violation for which a scheduled fine is provided by the Iowa Code shall be assessed a civil penalty equal to the scheduled fine.

B. All other offenses set forth above shall be assessed a civil penalty as follows:

- (1) First Offense \$50.00
- (2) Second Offense \$75.00 (within 1 year)
- (3) Third Offense \$100 (within 1 year)

C. Any offenses subsequent to a third offense shall be governed by section 3.04.

3. Procedure. The civil citation issued pursuant to this section shall contain the following information:

- A. The name and address of Defendant
- B. The name or description of the infraction attested to by the officer.
- C. The location and time of the infraction.
- D. The amount of the civil penalty to be assessed.
- E. The manner, location, and time in which the penalty may be paid.

F. The Defendants right to request a hearing to determine whether the infraction occurred.

G. The consequences for failure to timely pay the penalty or request a hearing to determine whether the infraction occurred.

4. Payment/Nonpayment of Penalty. A civil penalty payable hereunder shall be paid at the office of the City Clerk of the City of New London 112 Main St, New London, Iowa within thirty (30) days of the date of service of the citation upon the Defendant. If the recipient does not pay the penalty by the stated due date or request a hearing to determine whether the infraction has occurred, a \$35.00 late fee shall be assessed, and civil penalties imposed under the provisions of this ordinance shall be collectable, with interest or penalties by private agency on behalf of the City, the City or by civil suit.

5. Request for hearing.

A. A recipient of municipal infraction citation may dispute the citation by requesting a review by the Mayor or his designee. Such request must be made in writing within fifteen (15) days after the receipt of the citation and delivered to the New London City Clerk. The failure to give notice of request for review within in this time period shall constitute a waiver of the right to contest the citation. A hearing shall be held within ten (10) business days of the request for review.

B. The Mayor or designee shall act as hearing officer. At the conclusion of the hearing or within three (3) business days thereafter, the hearing officer shall render a written decision as to whether the defendant is guilty of the municipal infraction. An appeal from this decision may be had by filing a written notice with the hearing officer within five (5) business days.

6. Appeal. If further appeal is sought, a municipal infraction citation will be filed by the City with the Clerk of District Court. Such a request will result in a required court appearance by the recipient and in the scheduling of a trial before a judge or magistrate at the Henry County Courthouse, Mt. Pleasant, Iowa.

(Sec. 3.07 - Ord. 36 – Jan. 17 Supp.)

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

(Code of Iowa, Sec. 362.5[1])

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance, or Council directive.
2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the *Code of Iowa*.

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

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

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance, or resolution.
2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance, or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

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

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

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

5. Capital Improvements Reserve Fund. Except where specifically prohibited by State law, moneys may be transferred from any City fund to the Capital Improvements

Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Checks shall be prenumbered and signed by the 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.

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

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

(Code of Iowa, Sec. 384.22)

CHAPTER 8
URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
97-06-B	June 2, 1997	New London Urban Renewal Area
52	July 2, 2019	South Pine Street Urban Renewal Area

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CHAPTER 9

URBAN REVITALIZATION AREA

9.01 DESIGNATION OF REVITALIZATION AREA. In accordance with Chapter 404 of the Code of Iowa, the following described area of the City is hereby designated as an Urban Revitalization Area.

The entire area currently within the corporate boundaries, including any area annexed while the Urban Revitalization Plan is in effect, of the City of New London, Henry County, Iowa.

The Urban Revitalization Plan for the City, which is on file in the office of the Clerk, is declared to be the Urban Revitalization Plan for the area.

(Ord. 10 – Jan. 12 Supp.)

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief
3. Library Board of Trustees
4. Utility Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is \$1,500.00 per year, payable semiannually.

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

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

(*Code of Iowa, Sec. 372.4*)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

6. Employees. No person shall be gainfully employed by the City of New London without begin approved by resolution by a majority vote of the City Council Members present. The Council shall authorize the number, duties, term of office, and compensation of the employees or officers not otherwise provided for by the State law or the Code of Ordinances.

(Ord. 30 – Dec. 15 Supp.)

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

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

beginning of the term of the Council members elected at the election next following the change in compensation.

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.

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

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

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

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

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

5. Compelling Attendance. Any three 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. Planning and Zoning Commission
3. Zoning Board of Adjustment

(Ord. 47 – Jan. 19 Supp.)

17.06 COMPENSATION. The salary of each Council member is \$40.00 for each regular or special Council meeting attended, payable semiannually.

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

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CHAPTER 18

CITY CLERK

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

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

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

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

18.02 RESIDENCE REQUIREMENT. The Clerk shall, upon appointment and confirmation, reside within the City limits unless a waiver of this provision is granted or later obtained by City Council and Utility Board of Trustees action.

18.03 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.

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

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

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

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

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

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

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

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

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

18.07 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])

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

18.10 ATTENDANCE AT MEETINGS. At the direction of the Council, the Clerk shall attend meetings of committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

18.13 ELECTIONS. The Clerk shall perform the duties relating to elections and nomination in accordance with Chapter 376 of the *Code of Iowa*. The Clerk shall also cause to be published in the official City newspaper, the third week of August of a regular election year, the open seats for the Council/Mayor, where to get nomination papers, where to turn in nomination papers, and the deadline for turning in nomination papers.

(Ord. 32 – Dec. 15 Supp.)

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

20.01 Selection
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 SELECTION. The Council shall select by majority vote an individual attorney or law firm to serve as the City Attorney at the discretion of the Council and upon such terms and conditions as the Council may authorize from time to time. *(Ord. 47 – Jan. 19 Supp.)*

20.02 ATTORNEY FOR CITY. The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission, or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.03 POWER OF ATTORNEY. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
(Code of Iowa, Sec. 372.13[4])

20.04 ORDINANCE PREPARATION. The City Attorney shall prepare those ordinances which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.
(Code of Iowa, Sec. 372.13[4])

20.05 REVIEW AND COMMENT. The City Attorney shall, upon request, make a report to the Council giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.
(Code of Iowa, Sec. 372.13[4])

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.08 PREPARE DOCUMENTS. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.
(Code of Iowa, Sec. 372.13[4])

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

21.01 Public Library
21.02 Library Trustees
21.03 Qualifications of Trustees
21.04 Organization of the Board
21.05 Powers and Duties
21.06 Contracting with Other Libraries

21.07 Nonresident Use
21.08 Expenditures
21.09 Annual Report
21.10 Injury to Books or Property
21.11 Theft
21.12 Notice Posted

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

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

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

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

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

shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

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

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

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

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

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

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure to Return. Failure to return Library materials for two months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable

attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies

22.04 Compensation
22.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof

until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 23

UTILITY BOARD OF TRUSTEES

23.01 Purpose
23.02 Board Established
23.03 Appointment of Trustees
23.04 Compensation
23.05 Vacancies

23.06 Powers and Duties of the Board
23.07 Control of Funds
23.08 Accounting
23.09 Discriminatory Rates Illegal
23.10 Discontinuance of Board

23.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned water and electric utilities by a Board of Trustees.

23.02 BOARD ESTABLISHED. Pursuant to an election held November 7, 1961, the management and control of the municipally owned water and electric utilities were placed in the hands of a Board of Trustees.

(Code of Iowa, Sec. 388.2)

23.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five persons to serve as trustee for staggered six-year terms. The trustees must have their primary residence in New London Municipal Utilities' service area and may not be a public officer or a salaried employee of the City. Primary residence is defined as the place where you reside a minimum of six (6) months and one (1) day out of the year.

(Ord. 26 – Jan. 14 Supp.)

(Code of Iowa, Sec. 388.3)

23.04 COMPENSATION. The Council shall by resolution set the compensation of Board members.

(Code of Iowa, Sec. 388.3)

23.05 VACANCIES. An appointment to fill a vacancy on the Board of Trustees shall be made in the same manner as an original appointment except that such appointment shall be for the balance of the unexpired term.

(Code of Iowa, Sec. 388.3)

23.06 POWERS AND DUTIES OF THE BOARD. The Board of Trustees may exercise all powers of the City in relation to the City Utilities, with the following exceptions:

(Code of Iowa, Sec. 388.4)

1. Taxes, Ordinances and Bonds. The Board may not certify taxes to be levied, pass ordinances or amendments, or issue general obligation or special assessment bonds.

Code of Iowa, Sec. 388.4[1])

2. Property. Title to all property must be in the name of the City but the Board has full control of such property subject to limitations imposed by law.

(Code of Iowa, Sec. 388.4[2])

3. Reports to Council. The Board shall make a detailed annual report to the Council including a complete financial statement.

(Code of Iowa, Sec. 388.4[3])

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general circulation in the City a condensed statement of proceedings including a list of all claims.

(Code of Iowa, Sec. 388.4[4])

23.07 CONTROL OF FUNDS. The Board shall control tax revenues allocated to it as well as all moneys derived from operations.

(Code of Iowa, Sec. 388.5)

23.08 ACCOUNTING. Utility moneys are held in a separate utility fund, with a separate account for each utility.

(Code of Iowa, Sec. 388.5)

23.09 DISCRIMINATORY RATES ILLEGAL. The utility may not provide use or service at a discriminatory rate, except to the City or its agencies, as provided in Section 384.91, Code of Iowa.

(Code of Iowa, Sec. 388.6)

23.10 DISCONTINUANCE OF BOARD. A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the utility board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utility it administers is disposed of or leased for a period of over five years.

(Code of Iowa, Sec. 388.2)

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Police Chief Appointed

30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Contract Law Enforcement

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

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

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.
(Code of Iowa, Sec. 80B.11)

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

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

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

30.06 POLICE CHIEF APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.
(Code of Iowa, Sec. 372.4)

30.07 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.
(Code of Iowa, Sec. 372.13[4])

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.

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

(Code of Iowa, Sec. 321.266)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

30.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

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

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CHAPTER 35

FIRE DEPARTMENT

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

35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Emergency Rescue Service

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

35.15 EMERGENCY RESCUE SERVICE. The department is authorized to provide emergency rescue services, and the accidental injury and liability insurance provided for herein shall include such operation.

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs

36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by 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 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.

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances
41.02 False Reports to or Communications with Public
Safety Entities
41.03 Refusing to Assist Officer
41.04 Harassment of Public Officers and Employees
41.05 Interference with Official Acts
41.06 Abandoned or Unattended Refrigerators

41.07 Antenna and Radio Wires
41.08 Barbed Wire and Electric Fences
41.09 Discharging Weapons
41.10 Throwing and Shooting
41.11 Urinating and Defecating
41.12 Fireworks
41.13 Drug Paraphernalia

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or firefighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or firefighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and

“obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

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

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

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

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

41.12 FIREWORKS. The use of fireworks as defined in subsection one within the City is prohibited, except as provided in subsection two.

1. Definition. The term “fireworks” includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term “fireworks” does not include gold star producing sparklers on wires which contain no magnesium or

chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.

2. Regulations. The City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a certified or licensed operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

D. (Ord. 43 – Jan. 18 Supp.)

41.13 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

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

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

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

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

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CHAPTER 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
42.08 Dumpsters and Other Equipment

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
 - A. Section 21.10 – Injury to Books or Property
 - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
 - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.07 – Burning Prohibited
 - G. Section 135.13 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks

- E. Section 136.18 – Merchandise Display
- F. Section 136.19 – Sales Stands

42.08 DUMPSTERS AND OTHER EQUIPMENT. No dumpster or any other non-registered, non-self propelled equipment shall be placed and allowed to remain standing upon any public property, without the owner of said dumpster and other equipment first obtaining permission from the City Council to do so for a specific date(s). *(Ord. 59 – Jan. 22 Supp.)*

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(47) and (48) of this Code of Ordinances.]*

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:
 - A. “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any other situation requiring immediate action to prevent serious bodily injury or loss of life.
 - B. “Establishment” means any privately owned place of business operated for a profit to which the public is invited, including (but not limited to) any place of amusement or entertainment.
 - C. “Guardian” means:
 - (1) A person who, under court order, is the guardian of the person of a minor; or
 - (2) A public or private agency with whom the minor has been placed by a court.
 - D. “Knowingly” means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - E. “Minor” means any unemancipated person under the age of eighteen (18) years.
 - F. “Nonsecured custody” means custody in an unlocked area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or

other responsible adult or for other administrative purposes; but not for longer than six hours without the oral or written order of a judge or magistrate authorizing the detention.

G. “Operator” means any person operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

H. “Parent” means a person who is:

- (1) A natural parent, adoptive parent or step-parent of another person; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian to have legal custody of a minor.

I. “Public place” includes the City square, shopping centers, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is permitted without specific invitation; or to which the general public has access.

J. “Remain” means:

- (1) To linger or stay; or
- (2) Milling or repetitive driving in a circuitous route; or
- (2) To fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

K. “Responsible adult” means a parent or guardian.

L. (Subsection K – Ord. 41 – Jan. 18 Supp.)

M. “Unemancipated” means unmarried and still under the custody or control of a responsible adult.

2. Curfew Established. It is unlawful for any minor to be or remain in any public place during the following curfew hours:

- A. Sunday through Thursday: 11:00 p.m. to 6:00 a.m. each day.
- B. Friday and Saturday: 12:00 midnight to 6:00 a.m. each day.

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

- A. The minor is accompanied by a responsible adult.
- B. The minor is on the sidewalk or property where the minor resides.
- C. The minor is engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop.
- D. The minor is involved in an emergency.
- E. The minor is attending an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor,

- A. or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor.
 - F. The minor is at an assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly.
 - G. The minor is married or had been married or had disabilities of minority removed in accordance with law.
4. Responsibility of Adults.
- A. It is unlawful for a responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the curfew hours unless the minor's presence falls within one of the above exceptions.
 - B. It is unlawful for an owner, operator, or any employee of an establishment knowingly to permit or to allow a minor to remain upon the premises of the establishment during the curfew hours. It is a defense to prosecution under this paragraph that the owner, operator, or any employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during the curfew hours and refused to leave.
5. Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place, unless the officer has knowledge of the age and reason. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, including but not limited to prior warnings to the offender or the minor's parents, no defense in subsection 3 is present.
6. Grounds for Arrest. The following shall constitute grounds for arrest:
- A. Refusal to sign the citation without qualifications.
 - B. Two or more violations of the curfew within thirty days.
 - C. Refusal to provide proper identification.
 - D. Engagement in action that constitutes an immediate threat to the person's own safety or to the safety of the public.
7. Conditions of Custody. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any nonsecured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
8. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the

promise of such person to produce the child in court at such time as the court may direct.

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

10. Penalties.

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

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

C. Minor's First Violation – Warning. In the case of a first violation by a minor, the peace officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor.

D. Minor's Second Violation – Simple Misdemeanor. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a simple misdemeanor.

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

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

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

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

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Littering
47.05 Parks Closed
47.06 Alcoholic Beverages

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person shall remain within any park between the hours of 9:00 p.m. and 5:00 a.m., during standard time, and 10:00 p.m. and 5:00 a.m., during daylight savings time, except during scheduled public activities or events approved by the Council.

(Ord. 20 – Jan. 13 Supp.)

47.06 ALCOHOLIC BEVERAGES. It is unlawful for any person to use or consume alcoholic beverages in any City park except during special public activities or events approved by the Council.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.08)**
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, grass, brush, or other vegetation in the City in excess of six (6) inches or so as to constitute a health, safety, or fire hazard.

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

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

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

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

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

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. 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.

[†] **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.

- 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 such person.
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 which may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.
(Code of Iowa, Sec. 364.12[3h])
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.
(Code of Iowa, Sec. 364.13)
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 4 of this Code of Ordinances.

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
 - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

3. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, 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 the following:

1. Structure. To any junk or junk vehicles stored within a garage or other enclosed structure.
2. Salvage Yard. To any junk or junk vehicles stored within a lawfully operated auto salvage yard or junk yard within the City.
3. Restoration of Antique or Classic Vehicles. A person may restore one antique or classic vehicle which would otherwise constitute a “junk vehicle” on any lot under the following conditions:
 - A. The owner of said vehicle shall register said vehicle with the City Clerk by obtaining a “Vehicle Restoration Permit” only if the owner of an antique or classic vehicle meets the following conditions:
 - (1) Submits a completed and signed application form containing the name and address of the owner of the vehicle and the lot on which the vehicle is to be restored and the model, year and description of the vehicle, including its vehicle identification number.
 - (2) Provides proof of insurance with comprehensive coverage for said vehicle.
 - (3) Pays a fee of twenty-five dollars (\$25.00).
 - B. The vehicle restoration permit shall be valid for a period of one year and be renewable for a second year period upon meeting the conditions as provided herein. Only one permit may be issued per vehicle; the maximum period permitted by the City for restoring an antique or classic vehicle which would otherwise constitute a junk vehicle is two years.
 - C. Only one antique or classic vehicle may be restored on any lot at any one time.
 - D. The outdoor storage of any antique or classic vehicle undergoing restoration shall be limited to a period of four consecutive months, said period commencing at the date of issuance of the vehicle restoration permit or a later date as indicated by the owner on the application form for the permit. The owner shall cover completely a vehicle when it is being stored outside.
4. A person may store outdoors a motor sports vehicle used in sanctioned racing events, hereafter race car, that would otherwise constitute a junk vehicle under the following conditions.
 - A. Such race car shall be operable and used in sanctioned racing events.
 - B. Only one race car shall be stored outdoors on any one lot at any one time.

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

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

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

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

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CHAPTER 52

GRAFFITI

52.01 Definition

52.02 Declaration of Nuisance

52.03 Duty to Remove Graffiti

52.04 Abatement Procedure

52.01 DEFINITION. “Graffiti” means and includes any unauthorized inscription, word, figure or design or collection thereof, which is marked, etched, scratched, painted, drawn or printed on any building, structure or object and for which no sign permit has been issued by the City.

52.02 DECLARATION OF NUISANCE. The existence of graffiti on buildings, structures (including fences or walls), or any other objects located upon any property in the City is declared a nuisance.

52.03 DUTY TO REMOVE GRAFFITI. Any owner, agent or trustee of any public or private property which has been defaced by the application of graffiti shall, upon notification from the Building Inspector, remove such graffiti in accordance with Section 52.04 of this chapter.

52.04 ABATEMENT PROCEDURE. Upon discovery of any violation of this chapter, the City may initiate abatement procedures as set forth in Chapter 50 of this Code of Ordinances; provided, however, pursuant to Section 50.06 (1) (D) the City establishes seven (7) calendar days as the reasonable time within which to complete the abatement of any such violation.

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CHAPTER 54

PROPERTY MAINTENANCE REGULATIONS

54.01 Purpose

54.02 Authority for Enforcement

54.03 Interference

54.04 Nuisances

54.05 Abatement of Nuisances

54.01 PURPOSE. The purposes of these regulations are to designate the responsibilities of persons for maintenance of residential and commercial structures and buildings within the City, whether principal or accessory, occupied or vacant (hereinafter referred to as “structures” for purposes of this chapter); to define nuisances to include the failure to perform such maintenance; and to provide for the abatement of such nuisances to provide for the health, safety, and welfare of the City’s residents.

54.02 AUTHORITY FOR ENFORCEMENT. The City Clerk shall be responsible for the enforcement of this chapter and shall have all necessary authority to carry out such enforcement. The City Clerk may delegate enforcement authority to a “Property Maintenance Official.”

54.03 INTERFERENCE. No person shall interfere with the City Clerk or Property Maintenance Official while engaged in the enforcement of this chapter. A violation of this provision shall constitute a simple misdemeanor.

54.04 NUISANCES. A failure to satisfy any one or more of the following provisions shall constitute a nuisance:

1. General. All structures shall be maintained in good repair and in structurally sound and sanitary condition as provided herein, so as not to cause or contribute to the creation of a blighted area or adversely affect public health or safety.
2. Rodents and Vermin. All structures shall be kept free from rodent and vermin harborage and infestation. Where rodents and/or vermin are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent and/or vermin harborage and prevent re-infestation.
3. Protective Treatment. All exterior surfaces, including, but not limited to doors, windows, door and window frames, cornices, porches, trim, and siding shall be maintained in good condition. Finished exterior wood surfaces, other than decay-resistant wood, shall be protected from the elements and decay by painting or application of other protective covering or treatment as are appropriate under the circumstances. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and watertight. Plywood sheeting, house wrap, tar paper, insulation board, and similar construction materials, not designed or intended to be utilized as finished exterior surfaces, shall be covered with a finished exterior surface designed and intended for exterior use, including but not limited to vinyl, wood, or engineered wood siding; masonry products such as brick or stone; or applications such as stucco.

4. Foundation Walls. All foundation walls shall be maintained plumb and free from open cracks and breaks, and shall be kept in such condition to prevent the entry of rodents and/or vermin.
5. Exterior Walls. All exterior walls shall be maintained plumb (unless otherwise designed or engineered); free from cracks, holes, breaks, and loose or rotting materials; and maintained waterproof and properly surface coated where required to prevent deterioration.
6. Roofs and Drainage. All roofs and flashing of shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and down spouts shall be maintained in good repair, with proper anchorage, and free from obstructions.
7. Stairways, Decks, Porches, and Balconies. Every exterior stairway, deck, porch, or balcony, and all appurtenances thereto, shall be maintained in structurally sound condition, in good repair, and with proper anchorage, and capable of supporting normally imposed loads.
8. Chimneys and Towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained in structurally sound condition and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
9. Handrails and Guardrails. Every handrail and guardrail shall be firmly fastened and capable of supporting normally imposed loads, and shall be maintained in good condition.
10. Basement Entrances. Every basement hatchway or exterior basement entrance shall be maintained to prevent entry of rodents and/or vermin, and shall be maintained so as not to allow rain or surface drainage water to enter.
11. Broken or Boarded Doors or Windows. Broken or boarded up exterior doors and/or windows shall be replaced or repaired.
12. Standing Water. Basements, cellars, and crawl spaces shall be free of standing water.

54.05 ABATEMENT OF NUISANCES.

1. The City Clerk or designated Property Maintenance Official may abate any nuisance identified pursuant to this chapter in accordance with the procedures for abatement of nuisances contained in Chapter 50 of this Code of Ordinances.
2. Any violation of this chapter shall also constitute a municipal infraction pursuant to Chapter 3 of the Code of Ordinances.

(Ch. 54 – Ord. 49 – Jan. 20 Supp.)

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "At large" means off the premises of the animal's owner unless:
 - A. The animal is accompanied by and obedient to the commands of the owner or a competent responsible person, or
 - B. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of a person competent to restrain and control the animal, or
 - C. The animal is within a motor vehicle, or
 - D. The animal is housed within a veterinary hospital, licensed kennel, pet shop, or animal shelter.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.

6. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa.

7. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.

(Code of Iowa, Sec. 717.1)

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

9. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

55.06.1 PENALTY FOR DOG AT LARGE VIOLATION. Any dog found at large shall be deemed to be so with the permission or at the sufferance of its owner. For allowing the dog to run at large, the owner shall be guilty of a simple misdemeanor and upon conviction thereof, shall be fined in the sum of fifty dollars and shall pay the cost of prosecution, including attorney fees. For allowing a vicious dog to run at large, the owner shall be guilty of a simple misdemeanor and upon conviction thereof, shall be fined in the sum of one hundred dollars as a scheduled violation and shall pay the cost of prosecution, including attorney fees.

(Ord. 6 – Sep. 09 Supp.)

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 SANITATION.

1. It is the duty of every person owning or having custody or control of an animal to clean up, remove, and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.
2. An owner shall keep all structures, pens, coops, or yards wherein animals are confined clean, devoid of vermin, and free of offensive odors.

55.10 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in State or Federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded at 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.

55.14 DISPOSITION OF ANIMALS. When an animal has been apprehended, impounded and the owner is known, 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, and if an unvaccinated cat or 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. If an animal has been apprehended, impounded and the owner is unknown it shall only be impounded for three days. If the owner fails to come forward and redeem the animal within three days from the date of impoundment, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. Impounding costs are fifty dollars (\$50.00) for each impoundment plus boarding costs as established by the impoundment facility.

(Ord. 6 – Sep. 09 Supp.)

(Code of Iowa, Sec. 351.37)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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CHAPTER 56

PROBLEMATIC, VICIOUS, AND DANGEROUS ANIMALS

56.01 Definitions

56.02 Keeping of a Dangerous Animal Prohibited

56.03 Determination of Problematic and Vicious Animals

56.04 Review of Determination of Problematic or Vicious Animals

56.05 Exceptions; Consequences of Determinations

56.06 Handling Requirements of a Problematic or Vicious Animal

56.07 Owner Responsibility

56.08 Penalty

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

1. “At large” means off the premises of the animal’s owner unless:
 - A. The animal is accompanied by and obedient to the commands of the owner or a competent responsible person, or
 - B. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of a person competent to restrain and control the animal, or
 - C. The animal is within a motor vehicle, or
 - D. The animal is housed within a veterinary hospital, licensed kennel, pet shop, or animal shelter.
2. “Dangerous animal” means any animals as defined under Iowa Code Section 717F.1(5).
3. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
4. “Problematic animal” means an animal that may reasonably be assumed to pose a threat to public safety as demonstrated by at least one of the following behaviors:
 - A. An animal with a disposition, tendency or history to attack, exhibit aggressive behavior, cause injury to or otherwise endanger the safety of human beings or domestic animals;
 - B. An animal that snaps, attempts to bite a human being or domestic animal, or manifests a disposition to snap or bite;
 - C. An animal that, unprovoked, chases or approaches anyone in a menacing fashion off the owners property.
5. “Proper enclosure” means an enclosure that is sufficiently constructed and maintained to effectively prevent an animal subject to this subchapter from escaping. Such enclosure requires the following minimum requirements:
 - A. Problematic and vicious animals to be securely confined within an occupied house or residence or in an enclosed and locked pen or kennel, except when leashed as provided in this subchapter. Such pen, kennel or structure must have secure sides and a secure top attached to the sides or, in

lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure. Confinement conditions must be humane, permitting the animal adequate exercise and protection from the elements;

B. All pens or other structures designed, constructed or used to confine problematic and vicious animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined problematic or vicious animal;

C. Compliance with all pertinent zoning ordinances and other ordinances; and

D. No problematic or vicious animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition.

6. “Quarantine” means the strict isolation imposed to prevent the spread of disease.

7. “Rabies” means an acute viral disease of the central nervous system that is transmitted through the saliva from a bite or abrasion from an infected animal.

8. “Responsible person” means a person at least 18 years old who is able to keep the animal under control at all times.

9. “Serious injury” means any injury causing heavy bleeding, permanent nerve damage, damage beneath the skin or stitches.

10. “Vicious animal” means any animal that has been declared or found to pose an unacceptable risk to public safety by the animal control authority, law enforcement agency or court for conduct consistent with at least one of the following:

A. Any animal that on any single occasion caused the death or the serious injury to a person;

B. Any animal that has inflicted serious injury on a domestic animal or pet, killed a domestic animal or pet or inflicted injury upon a domestic animal or pet such that the domestic animal or pet later dies or must be euthanized due to the attack;

C. Any animal that has previously been designated as a “problematic animal” by this or any other jurisdiction, and engages in behavior that poses a threat to public safety;

D. Any animal that has previously been designated as “vicious animal” by this jurisdiction or its substantial equivalent by any other jurisdiction; or

E. Any animal that has engaged in or has been trained to engage in exhibitions of fighting, animal baiting or is owned or kept for such purposes.

F. Any animal that has been trained to attack human beings, upon command or spontaneously in response to human activities, except animal owned by and under the control of the Police Department, the County sheriff, a law enforcement agency of the State or of the United States or a branch of the armed forces of the United States.

An animal shall not be deemed vicious if the threat or injury is caused by a person who is assaulting the animal's owner, committing a willful trespass or tort upon the owner's premises, or provoking, tormenting or abusing the animal or can be shown to have done so repeatedly at other times.

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

56.03 DETERMINATION OF PROBLEMATIC AND VICIOUS ANIMALS.

1. After an investigation, the Police Department, Mayor or his or her designee is authorized to make a determination whether an animal is problematic or vicious based on the definitions of this chapter and shall notify the owner of the animal in writing by certified mail or hand delivery.

2. Following attempted notice to the owner if the Police Department, Mayor or his or her designee has probable cause to believe that an animal is a problematic or vicious animal and may pose a threat to public safety, the Police Department may, by owner consent or warrant, impound the animal pending disposition of the case or until the animal owner has fulfilled the requirements hereof. The owner of the animal will be liable for the costs of impounding and maintaining the animal.

3. The owner may request a hearing to appeal the determination of a problematic or vicious animal before the Council by sending a written notice to the City Clerk within 15 days after the date of notice. Upon receipt of a request for hearing, the Council shall schedule a hearing concerning the determination of a problematic or vicious animal to be held within 30 days after receipt by the City of the request for hearing, unless good cause for further delay exists.

4. If the owner timely request a hearing before the Council, such hearing shall follow the following procedures:

A. Each case before the Council shall be presented by the Police Department, Mayor or his or her designee who will have the burden of presenting evidence that the animal is a problematic or vicious animal and should be classified as such. If the evidence indicates that the animal is problematic or vicious, the burden is on the owner to present evidence that the animal is not problematic or vicious.

B. All testimony shall be recorded. The Council may hear testimony from the Mayor or his or her designee, the owner of the animal, and any witnesses for either side. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

C. At the conclusion of the hearing, the Council shall issue findings of fact, based on evidence of record and conclusions of law, and shall affirm the decision of the Police Department, Mayor or his or her designee classifying an animal as problematic or vicious, or reverse the decision stating that there's insufficient cause to declare the animal as problematic or vicious. A decision by the Council to reverse the determination shall not affect the City's right to later declare an animal to be a problematic or vicious animal, or to determine

that the animal poses a threat to public safety, for the animal's subsequent behavior.

56.04 REVIEW OF DETERMINATION OF PROBLEMATIC OR VICIOUS ANIMALS.

1. If any animal previously determined to be a problematic animal has not exhibited any of the behaviors specified in this chapter within 12 months since the date of the problematic animal determination, then that animal is eligible for a review of the determination with the potential for lifting the requirements of this section. Annual reviews shall be completed by the Police Department upon request of the owner. Request for review shall be made in writing to the City Clerk. The Police Department may rescind the problematic animal designation, may rescind or amend specific requirements set forth in the designation, or may take no action.

2. If an owner requests an annual review to the Police Department and is aggrieved by the Police Department's decision, the owner may appeal the Police Department's decision to the Council to have the problematic animal designation or any requirements contained therein rescinded or amended. The owner shall make such request in writing for hearing to the City Clerk. The request must be submitted within 15 days from the date of the Police Department's decision to continue the problematic animal determination, must set forth the full name of the applicant and the subject animal, and must contain a certification that no further violations of this chapter have occurred in the 12-month period immediately preceding such request. Within 20 days of receipt of the request, the City Clerk shall set the matter for hearing before the Council, which hearing shall occur no later than 45 days after the date the request was filed with the City Clerk, unless good cause exists for a later date. In rendering its decision, the Council may consider, among other items, the severity of the incident that resulted in the designation, the need to protect the public from further incidents, the likelihood of future incidents based on the history of the owner and/or the subject animal. At the conclusion of the hearing, the Council may rescind the problematic animal designation, may rescind or amend specific requirements set forth in the designation, or may take no action. The original problematic animal determination shall remain in effect pending the results of the hearing. In the event the Council declines to rescind or amend the problematic animal designation or any requirements contained therein, the owner may not request another hearing before the Council for another 12 months from the date of the Council's decision, unless the Council in rendering its decision shall specifically provide for a subsequent review within a shorter period of time.

3. If a vicious animal determination has been in place for 12 months or more, and provided there have been no further violations of the provisions of this chapter during such time, the owner may make the request to the Council to have the vicious animal designation or any requirements contained therein rescinded or amended. The owner shall make a request by providing a written request for hearing to the City Clerk. This request must state the full name and address of the applicant, the breed, age, and name of the vicious animal, proof of current applicable vaccinations for the vicious animal, a brief summary as to why the vicious animal designation should be lifted, and a certification from the Police Department, or agency tasked with enforcing this chapter, that no further violations of this chapter have occurred in the 12-month period immediately preceding such request. Within 20 days of receipt of the request, the City Clerk shall set the matter for hearing before the Council, which hearing shall

occur no later than 45 days after the date the request was filed with the City Clerk, unless good cause exists for a later date. In rendering its decision, the Council may consider, among other items, the severity of the incident that resulted in the designation, the need to protect the public from further incidents, and the likelihood of future incidents based on the history of the owner and/or the subject animal. At the conclusion of the hearing, the Council may rescind the vicious animal designation, may rescind or amend specific requirements set forth in the designation, or may take no action. The original vicious animal determination shall remain in effect pending the results of the hearing. In the event the Council declines to rescind or amend the vicious animal designation or any requirements contained therein, the owner may not request another hearing before the Council for another 12 months from the date of the Council's decision, unless the Council in rendering its decision shall specifically provide for a subsequent review within a shorter period of time.

56.05 EXCEPTIONS; CONSEQUENCES OF DETERMINATIONS.

1. No animal shall be declared a problematic or vicious animal if the animal was being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.
2. If the Police Department, Mayor or his or her designee determines that an animal is a problematic or vicious animal, the owner shall comply with the provisions of this chapter and any other special security or care requirements which are reasonable.
3. The Police Department, Mayor or his or her designee may cause an animal to be quarantined for observation for a minimum period of no less than ten days when any such animal has bitten, scratched or otherwise broken the skin of a person or domesticated animal. If said animal has a current rabies certificate, then such quarantine may be at the discretion of the person or persons in charge of animal enforcement and the quarantine may occur on the owner's premises in a manner ordered and as directed. If the owner fails to confine the animal as directed, then it shall be apprehended and held for the remainder of the ten-day quarantine at a veterinarian's office. If said animal has not been vaccinated against the rabies virus or the rabies vaccination has since expired, then said animal will be quarantined at a veterinarian's office for no less than ten days. If an animal is placed in quarantine outside of the home, the owner shall be required to pay the impounding fees. If the owner fails to pay the fees at the end of the period of isolation as directed by the animal enforcement authority, the animal will be turned over to the local animal shelter for assessment of adoptability. No animal shall be adopted back to the owner of the animal to avoid paying reclaim fees and citations issued. If said animal is deemed unadoptable it will be humanely euthanized. If an animal has bitten a domesticated animal or a person or caused a skin abrasion upon a person and is unclaimed or the owner is unknown, then it shall be held for a quarantine time of no less than ten days and then may be humanely euthanized.
4. The Police Department, Mayor or his or her designee may require immediate impoundment of the animal if the owner is unable or unwilling to comply with the requirements of this chapter until the owner of the animal has satisfied all the requirements set forth by the determination of problematic or vicious. The requirements must be met within 30 days. If, after 30 days, the owner has not satisfied all the requirements of the problematic or vicious determination, the animal may be humanely euthanized. The owner of the problematic or vicious animal shall

be liable to the organization designated to hold said animal for all costs incurred while housing whether or not the animal is reclaimed by the owner.

5. If the occurrence results in the death of a person, the animal shall be euthanized, and the costs of impoundment and euthanizing shall be assessed to the owner of the animal.

56.06 HANDLING REQUIREMENTS OF A PROBLEMATIC OR VICIOUS ANIMAL.

1. If an animal is deemed a problematic animal the owner must establish to the satisfaction of the Police Department, Mayor, or his or her designee that:

- A. The owner of the problematic animal is 18 years of age or older;
- B. The owner of the problematic animal shall present a certificate of insurance issued by an insurance company licensed to do business in the State, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of \$50,000 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his or her agents. The certificate shall require notice to the City, in conformity with general City standards for certificates of insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this division. If a certificate of insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to 30 days subsequent to the determination that an animal is problematic; however, if after 30 days a certificate of insurance or a policy has not been submitted, the animal shall be deemed in violation of this chapter and subject to immediate impoundment or humane euthanasia at the owner's expense.
- C. The problematic animal has a current rabies vaccination at the owner's expense;
- D. The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said problematic animal.

2. If an animal is deemed a vicious animal the owner, in addition to satisfying the requirements for registration of a problematic animal pursuant to Division (1) above, must establish to the satisfaction of the Police Department, Mayor or his or her designee that:

- A. The owner will maintain the vicious animal exclusively on the owner's property, except for medical treatment or examination; and
- B. The owner of the vicious animal has posted on the premises a clearly visible "Beware of Animal" warning sign indicating there is a vicious animal on the property. The sign shall be very visible from the public roadway or 50 feet, whichever is less.

3. The Police Department, Mayor or his or her designee may order the immediate impoundment of a vicious animal if the owner fails to abide by the conditions for registration or confinement or handling of a vicious or problematic animal.

56.07 OWNER RESPONSIBILITY. It shall be unlawful to:

1. Permit a problematic animal to be outside a proper enclosure unless the problematic animal is under the control of a responsible person, as defined in this chapter, muzzled, and restrained by a sturdy lead not exceeding six feet in length. The muzzle shall be made in a manner that will not cause injury to the animal or obscure its vision or interfere with its respiration, but shall prevent it from biting any person or animal;
2. Fail to maintain a vicious animal exclusively on the owner's property as required except for medical treatment or examination. When removed from the owner's property for medical treatment or examination, the vicious animal shall be crated or under the control of a responsible person, as defined in this chapter, muzzled and restrained with a sturdy lead not exceeding six feet in length. The muzzle shall be made in a manner that will not cause injury to the animal or obscure its vision or interfere with its respiration, but shall prevent it from biting any human being or animal;
3. Keep a vicious or problematic animal chained or otherwise tethered to any object or structure, including, but not limited to, trees, posts, fences, buildings or other structures;
4. Fail to provide proof of up to date vaccinations and certificate of insurance.
5. Fail to immediately notify the Police Department in person or by telephone upon escape of a vicious or problematic animal such that the animal is running at large, is unconfined, has attacked a domestic animal or has attacked a person;
6. Fail to notify within seven (7) days the Police Department with the name, address and telephone number of the new owner of the vicious or problematic animal if the animal has been sold or has been given away to an owner inside or outside the jurisdiction; and, if requested by the Police Chief or his or her designee, the owner must execute an affidavit under oath setting forth the complete name, address and telephone number of the person to whom the animal has been transferred;
7. Fail to notify, within seven (7) days, the Police Department of a change of address or telephone number by the owner of the vicious or problematic animal;
8. Fail to notify within the seven (7) days the Police Department if the vicious or problematic animal has died; and
9. Fail to surrender a vicious or problematic animal to law enforcement, the animal control authority or his or her designee for safe confinement pending a disposition of the case when there is a reason to believe that the vicious or problematic animal poses a threat to public safety.
10. The animal owner's property and the animal are subject to periodic inspection by the Police Department to ensure compliance with this subchapter.

56.08 PENALTY.

1. Except as provided in Subsection (2), a violation of this chapter shall be a municipal infraction under, Chapter 3 of this Code of Ordinances and violators shall be subject to a civil penalty. The City may also seek alternative relief, including but not limited to, removal of the problematic or vicious animal from the City, relinquishment of ownership, or euthanasia of the problematic or vicious animal.

2. Animal At Large Ticket. If an animal is observed running at large, and law enforcement or the animal control entity charged with enforcement of this chapter, are summoned to secure the animal, the owner of the animal at large shall be issued a citation for a scheduled municipal infraction under Chapter 3 of this Code of Ordinances.

(Ch. 56 – Ord. 55 – Jan. 21 Supp.)

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

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

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

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

(Code of Iowa, Sec. 321.1)

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

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

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

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the Police Chief.

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

2. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.

3. Parade Not A Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.
4. Control by Peace Officers and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Skateboards

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

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

23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Radar jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.277 – Reckless driving.
45. Section 321.277A – Careless driving.
46. Section 321.278 – Drag racing prohibited.
47. Section 321.284 – Open container; drivers.
48. Section 321.284A – Open container; passengers.
49. Section 321.288 – Control of vehicle; reduced speed.
50. Section 321.295 – Limitation on bridge or elevated structures.
51. Section 321.297 – Driving on right-hand side of roadways; exceptions.
52. Section 321.298 – Meeting and turning to right.
53. Section 321.299 – Overtaking a vehicle.
54. Section 321.302 – Overtaking and passing.
55. Section 321.303 – Limitations on overtaking on the left.

- 56. Section 321.304 – Prohibited passing.
- 57. Section 321.306 – Roadways laned for traffic.
- 58. Section 321.307 – Following too closely.
- 59. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 60. Section 321.309 – Towing; convoys; drawbars.
- 61. Section 321.310 – Towing four-wheel trailers.
- 62. Section 321.312 – Turning on curve or crest of grade.
- 63. Section 321.313 – Starting parked vehicle.
- 64. Section 321.314 – When signal required.
- 65. Section 321.315 – Signal continuous.
- 66. Section 321.316 – Stopping.
- 67. Section 321.317 – Signals by hand and arm or signal device.
- 68. Section 321.318 – Method of giving hand and arm signals.
- 69. Section 321.319 – Entering intersections from different highways.
- 70. Section 321.320 – Left turns; yielding.
- 71. Section 321.321 – Entering through highways.
- 72. Section 321.322 – Vehicles entering stop or yield intersection.
- 73. Section 321.323 – Moving vehicle backward on highway.
- 74. Section 321.323A – Approaching certain stationary vehicles.
- 75. Section 321.324 – Operation on approach of emergency vehicles.
- 76. Section 321.324A – Funeral processions.
- 77. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 78. Section 321.330 – Use of crosswalks.
- 79. Section 321.332 – White canes restricted to blind persons.
- 80. Section 321.333 – Duty of drivers approaching blind persons.
- 81. Section 321.340 – Driving through safety zone.
- 82. Section 321.341 – Obedience to signal of train.
- 83. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 84. Section 321.343 – Certain vehicles must stop.
- 85. Section 321.344 – Heavy equipment at crossing.
- 86. Section 321.344B – Immediate safety threat; penalty.
- 87. Section 321.354 – Stopping on traveled way.
- 88. Section 321.359 – Moving other vehicle.
- 89. Section 321.362 – Unattended motor vehicle.

- 90. Section 321.363 – Obstruction to driver’s view.
- 91. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
- 92. Section 321.365 – Coasting prohibited.
- 93. Section 321.367 – Following fire apparatus.
- 94. Section 321.368 – Crossing fire hose.
- 95. Section 321.369 – Putting debris on highway.
- 96. Section 321.370 – Removing injurious material.
- 97. Section 321.371 – Clearing up wrecks.
- 98. Section 321.372 – School buses.
- 99. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 100. Section 321.381A – Operation of low-speed vehicles.
- 101. Section 321.382 – Upgrade pulls; minimum speed.
- 102. Section 321.383 – Exceptions; slow vehicles identified.
- 103. Section 321.384 – When lighted lamps required.
- 104. Section 321.385 – Head lamps on motor vehicles.
- 105. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 106. Section 321.387 – Rear lamps.
- 107. Section 321.388 – Illuminating plates.
- 108. Section 321.389 – Reflector requirement.
- 109. Section 321.390 – Reflector requirements.
- 110. Section 321.392 – Clearance and identification lights.
- 111. Section 321.393 – Color and mounting.
- 112. Section 321.394 – Lamp or flag on projecting load.
- 113. Section 321.395 – Lamps on parked vehicles.
- 114. Section 321.398 – Lamps on other vehicles and equipment.
- 115. Section 321.402 – Spot lamps.
- 116. Section 321.403 – Auxiliary driving lamps.
- 117. Section 321.404 – Signal lamps and signal devices.
- 118. Section 321.404A – Light-restricting devices prohibited.
- 119. Section 321.405 – Self-illumination.
- 120. Section 321.406 – Cowl lamps.
- 121. Section 321.408 – Back-up lamps.
- 122. Section 321.409 – Mandatory lighting equipment.
- 123. Section 321.415 – Required usage of lighting devices.

- 124. Section 321.417 – Single-beam road-lighting equipment.
- 125. Section 321.418 – Alternate road-lighting equipment.
- 126. Section 321.419 – Number of driving lamps required or permitted.
- 127. Section 321.420 – Number of lamps lighted.
- 128. Section 321.421 – Special restrictions on lamps.
- 129. Section 321.422 – Red light in front.
- 130. Section 321.423 – Flashing lights.
- 131. Section 321.430 – Brake, hitch, and control requirements.
- 132. Section 321.431 – Performance ability.
- 133. Section 321.432 – Horns and warning devices.
- 134. Section 321.433 – Sirens, whistles, and bells prohibited.
- 135. Section 321.434 – Bicycle sirens or whistles.
- 136. Section 321.436 – Mufflers, prevention of noise.
- 137. Section 321.437 – Mirrors.
- 138. Section 321.438 – Windshields and windows.
- 139. Section 321.439 – Windshield wipers.
- 140. Section 321.440 – Restrictions as to tire equipment.
- 141. Section 321.441 – Metal tires prohibited.
- 142. Section 321.442 – Projections on wheels.
- 143. Section 321.444 – Safety glass.
- 144. Section 321.445 – Safety belts and safety harnesses; use required.
- 145. Section 321.446 – Child restraint devices.
- 146. Section 321.449 – Motor carrier safety regulations.
- 147. Section 321.450 – Hazardous materials transportation.
- 148. Section 321.454 – Width of vehicles.
- 149. Section 321.455 – Projecting loads on passenger vehicles.
- 150. Section 321.456 – Height of vehicles; permits.
- 151. Section 321.457 – Maximum length.
- 152. Section 321.458 – Loading beyond front.
- 153. Section 321.460 – Spilling loads on highways.
- 154. Section 321.461 – Trailers and towed vehicles.
- 155. Section 321.462 – Drawbars and safety chains.
- 156. Section 321.463 – Maximum gross weight.
- 157. Section 321.465 – Weighing vehicles and removal of excess.
- 158. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 SKATEBOARDS. It is unlawful for any person to operate or use in any manner any skateboard on the sidewalks adjacent to Main Street between Pine Street and Elm Street.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any street within the Business District.
2. Special 20 MPH Speed Zone. A speed in excess of 20 miles per hour is unlawful on Dover Circle.

(Ord. 12 – Jan. 12 Supp.)

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns

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

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

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

– NONE –

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Required
65.02 Four-Way Stop Intersections
65.03 Yield Required
65.04 School Stops

65.05 Stop Before Crossing Sidewalk
65.06 Stop When Traffic Is Obstructed
65.07 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Burlington Street. Vehicles traveling west on Burlington Street shall stop at North Elm Street.
2. Burlington Street. Vehicles traveling east on Burlington Street shall stop at North Chestnut Street.
3. Cedar Street. Vehicles traveling south on Cedar Street shall stop at East Cleveland Street.
4. Cedar Street. Vehicles traveling north on Cedar Street shall stop at East McKinley Street.
5. Codner Street. Vehicles traveling west on Codner Street shall stop at South Ash Street.
6. East Adams Street. Vehicles traveling west on East Adams Street shall stop at East Cleveland Street.
7. East Lincoln Street. Vehicles traveling east on East Lincoln Street shall stop at North Chestnut Street.
8. East McKinley Street. Vehicles traveling on East McKinley Street shall stop at South Chestnut Street.
9. East McKinley Street. Vehicles traveling on East McKinley Street shall stop at South Ash Street.
10. East McKinley Street. Vehicles traveling east on East McKinley Street shall stop at East Main Street.
11. East Washington Street. Vehicles traveling on East Washington Street shall stop at North Elm Street.
12. East Washington Street. Vehicles traveling east on East Washington Street shall stop at North Chestnut Street.
13. East Wilson Street. Vehicles traveling east on East Wilson Street shall stop at South Cottonwood Street.
14. East Wilson Street. Vehicles traveling on East Wilson Street shall stop at South Chestnut Street.
15. Garfield Street. Vehicles traveling east on Garfield Street shall stop at South Walnut Street.

16. Garfield Street. Vehicles traveling west on Garfield Street shall stop at South Maple Street.
17. Hillcrest Drive. Vehicles traveling west on Hillcrest Drive shall stop at South Pine Street.
18. Jefferson Street. Vehicles traveling west on Jefferson Street shall stop at North Elm Street.
19. Jefferson Street. Vehicles traveling east on Jefferson Street shall stop at North Chestnut Street.
20. Johnson Street. Vehicles traveling on Johnson Street shall stop at North Pine Street.
21. Johnson Street. Vehicles traveling west on Johnson Street shall stop at Poplar Street.
22. Monroe Street. Vehicles traveling east on Monroe Street shall stop at South Walnut Street.
23. Monroe Street. Vehicles traveling west on Monroe Street shall stop at South Maple Street.
24. Newland Street. Vehicles traveling north on Newland Street shall stop at East McKinley Street.
25. Newland Street. Vehicles traveling south on Newland Street shall stop at East Adams Street.
26. North Ash Street. Vehicles traveling south on North Ash Street shall stop at East Main Street.
27. North Chestnut Street. Vehicles traveling south on North Chestnut Street shall stop at East Main Street.
28. North Cottonwood Street. Vehicles traveling south on North Cottonwood Street shall stop at East Main Street.
29. North Division Street. Vehicles traveling on North Division Street shall stop at East Washington Street.
30. North Division Street. Vehicles traveling south on North Division Street shall stop at West Madison Street.
31. North Elm Street. Vehicles traveling south on North Elm Street shall stop at East Main Street.
32. North Maple Street. Vehicles traveling south on North Maple Street shall stop at East Main Street.
33. North Maple Street. Vehicles traveling on North Maple Street shall stop at West Washington Street.
34. North Maple Street. Vehicles traveling on North Maple Street shall stop at West Lincoln Street.
35. North Maple Street. Vehicles traveling on North Maple Street shall stop at West Madison Street.

36. North Maple Street. Vehicles traveling north on North Maple Street shall stop at Johnson Street.
37. North Oak Street. Vehicles traveling on North Oak Street shall stop at East Lincoln Street.
38. North Oak Street. Vehicles traveling south on North Oak Street shall stop at South Jefferson Street.
39. North Oak Street. Vehicles traveling north on North Oak Street shall stop at Jefferson Street.
40. North Oak Street. Vehicles traveling north on North Oak Street shall stop at Burlington Street.
41. North Oak Street. Vehicles traveling south on North Oak Street shall stop at East Main Street.
42. North Oak Street. Vehicles traveling on North Oak Street shall stop at East Washington Street.
43. North Pine Street. Vehicles traveling south on North Pine Street shall stop at West Main Street.
44. North Walnut Street. Vehicles traveling south on North Walnut Street shall stop at West Main Street.
45. North Walnut Street. Vehicles traveling on North Walnut Street shall stop at Polk Street.
46. Orchard Lane. Vehicles traveling on Orchard Lane shall stop at West Main Street.
47. Polk Street. Vehicles traveling on Polk Street shall stop at North Pine Street.
48. Polk Street. Vehicles traveling west on Polk Street shall stop at Poplar Street.
49. Poplar Street. Vehicles traveling south on Poplar Street shall stop at West Main Street.
50. Poplar Street. Vehicles traveling south on Poplar Street shall stop at West Madison Street.
51. Redbud Drive. Vehicles traveling east on Redbud Drive shall stop at South Pine Street.
52. South Ash Street. Vehicles traveling north on South Ash Street shall stop at East Main Street.
53. South Ash Street. Vehicles traveling on South Ash Street shall stop at East Adams Street.
54. South Ash Street. Vehicles traveling south on South Ash Street shall stop at East Cleveland Street.
55. South Chestnut Street. Vehicles traveling north on South Chestnut Street shall stop at East Main Street.
56. South Chestnut Street. Vehicles traveling on South Chestnut Street shall stop at East Cleveland Street.

57. South Chestnut Street. Vehicles traveling north on South Chestnut Street shall stop at East Adams Street.
58. South Cottonwood Street. Vehicles traveling north on South Cottonwood Street shall stop at East Main Street.
59. South Cottonwood Street. Vehicles traveling south on South Cottonwood Street shall stop at East Adams Street.
60. South Division Street. Vehicles traveling south on South Division Street shall stop at West Wilson Street.
61. South Elm Street. Vehicles traveling north on South Elm Street shall stop at East Cleveland Street.
62. South Elm Street. Vehicles traveling north on South Elm Street shall stop at East Main Street.
63. South Maple Street. Vehicles traveling south on South Maple Street shall stop at Thompson Street.
64. South Maple Street. Vehicles traveling on South Maple Street shall stop at West Wilson Street.
65. South Maple Street. Vehicles traveling north on South Maple Street shall stop at West Main Street.
66. South Oak Street. Vehicles traveling north on South Oak Street shall stop at West Main Street.
67. South Oak Street. Vehicles traveling on South Oak Street shall stop at East Wilson Street.
68. South Oak Street. Vehicles traveling south on South Oak Street shall stop at East McKinley Street.
69. South Pine Street. Vehicles traveling north on South Pine Street shall stop at West Main Street.
70. South Walnut Street. Vehicles traveling north on South Walnut Street shall stop at West Main Street.
71. South Walnut Street. Vehicles traveling north on South Walnut Street shall stop at West Adams Street.
72. Sunset Drive. Vehicles traveling north on Sunset Drive shall stop at West Main Street.
73. Thompson Street. Vehicles traveling west on Thompson Street shall stop at South Pine Street.
74. West Adams Street. Vehicles traveling east on West Adams Street shall stop at South Walnut Street.
75. West Adams Street. Vehicles traveling west on West Adams Street shall stop at South Maple Street.
76. West Adams Street. Vehicles traveling east on West Adams Street shall stop at South Pine Street.

77. West Jackson Street. Vehicles traveling east on West Jackson Street shall stop at South Walnut Street.

78. West Jackson Street. Vehicles traveling west on West Jackson Street shall stop at South Maple Street.

79. West Jackson Street. Vehicles traveling east on West Jackson Street shall stop at South Pine Street.

80. West Lincoln Street. Vehicles traveling on West Lincoln Street shall stop at North Walnut Street.

81. West Lincoln Street. Vehicles traveling west on West Lincoln Street shall stop at North Pine Street.

82. West Madison Street. Vehicles traveling on West Madison Street shall stop at North Pine Street.

83. West Washington Street. Vehicles traveling on West Washington Street shall stop at North Pine Street.

84. West Wilson Street. Vehicles traveling west on West Wilson Street shall stop at Sunset Drive.

85. West Wilson Street. Vehicles traveling on West Wilson Street shall stop at South Pine Street.

86. East Codner Street. Vehicles traveling east on East Codner Street shall stop at South Cedar Street.

(Ord. 13 – Jan. 12 Supp.)

87. Dover Circle. Vehicles traveling west on Dover Circle shall stop at South Chestnut Street.

(Ord. 14 – Jan. 13 Supp.)

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Cedar Street and East Adams Street.
2. Intersection of East Adams Street and South Elm Street.
3. Intersection of East Lincoln Street and North Elm Street.
4. Intersection of East McKinley Street and South Cottonwood Street.
5. Intersection of East Wilson Street and South Elm Street.
6. Intersection of North Walnut Street and West Washington Street.
7. Intersection of North Walnut Street and West Madison Street.

(Ord. 18 – Jan. 13 Supp.)

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

(Code of Iowa, Sec. 321.345)

1. North Division Street. Vehicles traveling north on North Division Street shall yield at Lincoln Street.

2. North Maple Street. Vehicles traveling on North Maple Street shall yield at West Polk Street.
3. West Jackson Street. Vehicles traveling west on West Jackson Street shall yield at Sunset Drive.

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

(Code of Iowa, Sec. 321.249)

1. Intersection of East Adams Street and South Elm Street.
2. Intersection of East Wilson Street and South Elm Street.
3. Intersection of West Main Street and Walnut Street.
4. Intersection of West Monroe and Street South Walnut Street.
5. Intersection of West Wilson Street and South Division Street.
6. Intersection of West Wilson Street and South Pine Street.
7. Intersection of West Wilson Street and South Walnut Street.
8. On West Wilson Street between South Walnut Street and South Division Street.

(Ord. 42 – Jan 18 Supp.)

65.05 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)

65.06 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.

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

– NONE –

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use of Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. North Division Street shall be northbound only from Main Street to Washington Street. *(Ord. 46 – Jan. 19 Supp.)*

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb – One-Way Street
69.03 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited

69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 Parking Prohibited During Certain Times
69.10 Truck Parking Limited
69.11 Snow Removal

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

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

1. North Maple Street, on both sides from West Main Street to West Washington Street.
2. North Pine Street, on both sides from West Main Street to West Washington Street.
3. West Washington Street, on both sides, from North Pine Street to North Maple Street.

(Ord. 38 – Jan. 18 Supp.)

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

(Code of Iowa, Sec. 321.361)

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

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

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

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

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

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358[11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. Area Between Lot Line and Street Line. That area of the public way not covered by sidewalk and lying between the lot line and the street line.

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

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

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

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

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

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

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

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

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

1. Bus Stop in front of Clark Elementary School, on the east side of South Walnut Street (school bus standing or parking permitted).
2. East Adams Street, on the south side, from South Walnut Street east 250 feet.
3. East Cleveland Street, on both sides, from East McKinley Street southeast 300 feet.
4. East Washington Street, on the south side from North Elm Street to North Division Street.
5. North Division Street, on the west side, from Lincoln Street to Main Street.
6. North Elm Street, on the east side from Main Street north 75 feet.
7. North Pine Street, on both sides, from the railroad overpass south 30 feet.
8. North Pine Street, on the east side, from 15 feet south of West Madison Street to Polk Street.
9. North Pine Street, on the west side, from West Johnson Street to West Washington Street.
10. North Poplar Street, on the east side, from West Madison Street to Sherrie Lane.
11. South Ash Street, on the west side, from East McKinley Street to East Adams Street.
12. South Division Street, on the east side, from Main Street to the alley between Main Street and Wilson Street.
13. South Division Street, on the west side, from the alley between Main and Wilson Street to West Wilson Street.

14. South Elm Street, on both sides, from East Wilson Street to East McKinley Street.
15. South Elm Street, on the east side, from East Cleveland Street to 120 feet south of East Adams Street.
16. South Maple Street, on the east side, from West Main Street to West Wilson Street.
17. South Maple Street, on both sides, from West Monroe Street to West Jackson Street.
18. South Pine Street, on both sides, from West Main Street to corporate City limits.
19. South Walnut Street, on the east side, from Clark Elementary School drive north 15 feet.
20. South Walnut Street, on the west side, from 15 feet north of West Monroe Street to West Adams Street.
21. West Washington Street, on the south side, from North Division Street to North Maple Street.
22. West Washington Street, on the south side, from North Pine Street to North Poplar Street.

(Section 69.08 – Ord. 63 – Jan. 22 Supp.)

69.09 PARKING PROHIBITED DURING CERTAIN TIMES. It is unlawful to park any vehicle upon the following designated streets during the times indicated:

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

1. East Wilson Street, on the south side, from the school parking lot to South Elm Street between the hours of 8:00 a.m. and 5:00 p.m.
2. North Chestnut Street, on the west side, from Burlington Street to East Washington Street between the hours of 6:00 a.m. and 6:00 p.m.
3. North Pine Street, on both sides, between West Main Street and West Washington Street for a continuous period of two (2) hours.
4. North Walnut Street, on the east side, from 15 feet north of the driveway located at 304 North Walnut Street to West Madison Street on Monday through Friday.

(Section 69.09 – Ord. 62 – Jan. 22 Supp.)

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

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended any such vehicle, on any street 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. 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.
3. Other Streets. No person shall park or leave unattended any such vehicle on any of the following streets:
 - A. North Maple Street, on both sides, from West Main Street to West Washington Street.
 - B. North Pine Street, on both sides, from West Main Street to West Washington Street.
 - C. West Washington Street, on both sides, from North Pine Street to North Maple Street.

69.11 SNOW REMOVAL. Parking on the City streets listed below during certain weather conditions or when certain weather conditions are forecasted is restricted as follows:

1. Snow Emergency Routes. The following streets have been designated as snow emergency routes:
 - A. Adams Street
 - B. Chestnut Street
 - C. Cleveland Street
 - D. Elm Street
 - E. Madison Street
 - F. Main Street
 - G. Pine Street
 - H. Thompson Street
 - I. Walnut Street
2. Snow Emergency Route Signs. On each street designated as a snow emergency route, special signs shall be posted designating that street as a snow emergency route. These signs shall be distinctive and uniform in appearance and shall be plainly readable to persons traveling on the street or highway.
3. Parking on Snow Emergency Routes. Whenever the forecast or the actual action of one (1) or more inch(s) of snow, sleet or freezing rain may or is occurring parking on snow emergency routes is prohibited. Normal parking shall resume when the weather event is over and the streets are cleared.
4. Parking on Snow Emergency Routes Allowed During Certain Times. Parking is permitted on Main Street, on both sides, between Elm Street and Maple Street between the hours of 7:00 a.m. and 10:00 p.m. regardless of the forecast or the actual action of one (1) or more inch(s) of snow, sleet or freezing rain.
5. Removal of Vehicles. Vehicles in violation of this chapter shall be subject to impounding as described in Section 70.06 of this Code of Ordinances.

(Section 69.11 – Ord. 60 – Jan. 22 Supp.)

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of fifteen dollars (\$15.00) 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 five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the fine shall be grounds for the filing of a complaint in District Court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on the following streets for the sole purpose of traveling from one area of operation to another, but no snowmobiles shall be driven on such streets solely for entertainment or pleasure.

- A. Pine Street.
- B. Main Street west of Sunset Drive.
- C. Sunset Drive from Main Street to Wilson Street.
- D. Wilson Street west of Elm Street.
- E. Elm Street from Wilson Street to the south City limit and from Burlington Street to Madison Street.
- F. Cleveland Street.
- G. Madison Street.
- H. Burlington Street from Elm Street to Chestnut Street.
- I. Chestnut Street from Burlington Street to Madison Street.

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

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

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

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

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

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations
76.02 Traffic Code Applies
76.03 Double Riding Restricted
76.04 Two Abreast Limit
76.05 Bicycle Paths
76.06 Speed
76.07 Emerging from Alley or Driveway

76.08 Carrying Articles
76.09 Riding on Sidewalks
76.10 Towing
76.11 Improper Riding
76.12 Parking
76.13 Equipment Requirements
76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars.
(Code of Iowa, Sec. 321.236[10])

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

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.
(Code of Iowa, Sec. 321.236[10])

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.
(Code of Iowa, Sec. 321.236[10])

3. Yield Right-of-Way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.
(Code of Iowa, Sec. 321.236[10])

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

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

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.
(Code of Iowa, Sec. 321.236[10])

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.
(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.
(Code of Iowa, Sec. 321.236[10])

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code

of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 77

OPERATION OF GOLF CARTS ON CITY STREETS

77.01 Definitions

77.02 Operation of Golf Carts Permitted

77.03 Equipment Required

77.04 Permits

77.05 Operation Regulations

77.06 Unlawful Operation

77.07 Penalty

77.08 Negligence

77.01 DEFINITIONS. “Golf cart” means a three or four wheeled recreational vehicle generally used for transportation of person(s) in the sport of golf, that is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds.

77.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City of New London by persons possessing a valid full driver’s license. Golf cart operators shall observe all state and local traffic control regulations and devices.

77.03 EQUIPMENT REQUIRED. A golf cart operated on City streets within the City of New London shall be equipped with a minimum of the following safety features:

1. A regulation sized (14 x 16 inches) slow-moving vehicle sign;
2. Bicycle safety flag;
3. Functioning brakes;
4. Functioning noise control device such as a functioning muffler;
5. Functioning head lights/tail lights;
6. All equipment required by Iowa Code Section 321.247.

(Section 77.03 – Ord. 56 – Jan. 22 Supp.)

77.04 PERMITS. No person shall operate a golf cart on any public street or alley, for any purpose, unless the operator possesses a permit from the City of New London to operate a golf cart on City streets, issued by the City Clerk of New London, Iowa.

1. Golf cart owners may apply for a permit from the City Clerk on forms provided by the City.
2. The Clerk shall not issue a permit until the owner/operator has provided the following:
 - A. Evidence that the operator possesses a valid full driver’s license.
 - B. Insurance verification for the golf cart meeting State minimum requirements.
3. All permits shall be issued for a specific golf cart. Permit holders will be issued a permit sticker to affix to the rear of the vehicle where it is clearly visible at all times.
4. The fee for such permit stickers shall be twenty five dollars (\$25.00).
5. If a permit sticker is lost or damaged the fee for a replacement permit sticker within the same calendar year shall be ten dollars (\$10.00).

6. The permit will be valid during the calendar year within which it is issued and shall be renewed annually. Permits may be purchased anytime during the year, but will be valid only through December 31 of the year in which the permit was purchased.

7. A permit may be suspended or revoked by the City Council as a result of any violation of this ordinance. For purposes of suspension or revocation, all operator offenses shall be attributed to the owner.

A. The period of suspension or revocation for first time offenses shall be for six months.

B. The notice of revocation, including a description of the violation, shall be provided in writing and served by ordinary mail to the owner of the golf cart at the address shown on the permit application.

C. There will be no refund of the permit fee.

(Section 77.04 – Ord. 56 – Jan. 22 Supp.)

77.05 OPERATION REGULATIONS. The following apply to the operation of a golf cart within the City:

1. Any operator of a golf cart must have a valid full driver's license;
2. All riders in the golf cart must remain seated at all times;
3. No more than two adult people may ride in the front seat of a golf cart and not more than two adult people may ride in the backseat of a golf cart, if said seat exists;
4. While operating any rider must be seated on the seat and no part of the body of any rider will extend beyond the sides of the cart;
5. Children must be accompanied by an adult driver and must follow all requirements of this section except the capacity limits as long as all children are seated on the seat(s) and no part of the body of the child extends beyond the sides of the golf cart. No child shall be in the area of the operator or operator's position;
6. Golf carts shall not be operated at a speed in excess of twenty-five (25) miles per hour;
7. In case of accidents resulting in injury or death to anyone, or property damage amounting to one thousand dollars (\$1,000) or more, the operator, or someone acting for the operator, shall immediately notify a law enforcement officer, and shall file an accident report within forty-eight (48) hours, in accordance with State law.

77.06 UNLAWFUL OPERATION. The following are considered unlawful operation of a golf cart:

1. No golf carts shall be operated or parked upon City sidewalks or in City parks;
2. No golf cart shall be operated while under the influence of intoxicating liquor, narcotics or habit-forming drugs;
3. No person shall operate a golf cart in a careless, reckless or negligent manner endangering the person or property of another or causing injury or damage to same;
4. No golf cart shall be operated upon that portion of the street located between the curb line and the sidewalk or property line, referred to as the "parking," except for

purposes of crossing the same to a public street upon which operation is authorized by this chapter;

5. No item shall be towed by a golf cart;
6. No golf cart shall be operated upon private property without the express consent of the owner thereof;
7. No golf cart shall be operated on roadways or other areas in cemeteries located in the City;
8. No golf cart shall be operated during inclement weather when visibility is reduced or impaired by weather, smoke, fog or other conditions or at any other time there is insufficient light to clearly see a person or vehicle on a roadway at a distance of five hundred (500) feet;
9. No golf cart shall be operated in a manner which violates Iowa Code Section 321, which shall be and is adopted as applicable to the operation of golf carts in the City as are all section of the New London City Code concerning the operation of motor vehicles.

77.07 PENALTY. In addition to the suspension or revocation of the golf cart permit, a person who violates this chapter is guilty of a simple misdemeanor punishable as provided under Iowa Code.

1. Any person guilty of violating this chapter two (2) times shall be subject to permanent revocation of the City of New London permit.

77.08 NEGLIGENCE. The owner and operator of a golf cart are liable for any injury or damage occasioned by the negligent operation of the golf cart. The owner of a golf cart shall be liable for any such injury or damage only if the owner was the operator of the golf cart at the time the injury or damage occurred or if the operator had the owner's consent to operate the golf cart at the time the injury or damage occurred.

(Ch. 77 – Ord. 47 – Jan. 19 Supp.)

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CHAPTER 78

OPERATION OF OFF ROAD UTILITY VEHICLES (UTVS) ON CITY STREETS

78.01 Definitions

78.02 Operation of Off-Road Utility Vehicles (UTVs) Permitted

78.03 Equipment Required

78.04 Permits

78.05 Operation Regulations

78.06 Unlawful Operation

78.07 Penalty

78.08 Negligence

78.01 DEFINITIONS. “Off road utility vehicle (UTV)” shall have the same meaning as in Iowa Code Section 321I.1(18). In this ordinance, such vehicles may be referred to as UTVs or UTV. No other types of all terrain vehicles or off-road vehicles shall be permitted in this ordinance.
(Ord. 57 – Jan. 22 Supp.)

78.02 OPERATION OF OFF-ROAD UTILITY VEHICLES (UTVs) PERMITTED. UTVs may be operated upon the streets of the City of New London by persons possessing a valid full Iowa operator’s license. Owners and operators shall not operate any UTV in the City that does not comply with all registration and titling requirements of Iowa Code Section 321I. UTV operators shall observe all state and local traffic control regulations and devices.

78.03 EQUIPMENT REQUIRED. A golf cart operated on City streets within the City of New London shall be equipped with a minimum of the following safety features:

1. A regulation sized (14 x 16 inches) slow-moving vehicle sign;
2. Functioning brakes;
3. Rear view mirror;
4. Functioning noise control device such as a functioning muffler;
5. Functioning exhaust system;
6. Functioning head lights/tail lights;
7. All equipment required by Iowa Code Section 321I;
8. For snow removal, a yellow beacon will be affixed to the vehicle for visibility.

(Section 78.03 – Ord. 57 – Jan. 22 Supp.)

78.04 PERMITS. No person shall operate a UTV on any public street or alley, for any purpose, unless the operator possesses a permit from the City of New London to operate a UTV on City streets, issued by the City Clerk of New London, Iowa.

1. UTV owners may apply for a permit from the City Clerk on forms proved by the City.
2. The Clerk shall not issue a permit unit the owner/operator has provided the following:
 - A. Evidence that the operator possesses a valid full Iowa driver’s license;

- B. Proof of registration compliance with Iowa Code Sections 321 and 321I;
 - C. Insurance policy covering for recreational vehicle use meeting state minimum requirements.
- 3. All permits shall be issued for a specific UTV. Permit holders will be issued a permit sticker to affix to the rear of the vehicle where it is clearly visible at all times.
 - 4. The fee for such permit sticker shall be twenty five dollars (\$25.00).
 - 5. If a permit sticker is lost or damaged the fee for a replacement permit sticker within the same calendar year shall be ten dollars (\$10.00).
 - 6. The permit will be valid during the calendar year within which it is issued and shall be renewed annually. Permits may be purchased anytime during the year, but will be valid only through December 31 of the year in which the permit was purchased.
 - 7. A permit may be suspended or revoked by the City Council as a result of any violation of this ordinance. For purposes of suspension or revocation, all operator offenses shall be attributed to the owner.
 - A. The period of suspension or revocation for first time offenses shall be for six months.
 - B. The notice of revocation, including a description of the violation, shall be provided in writing and served by ordinary mail to the owner of the UTV at the address shown on the permit application.
 - C. There will be no refund of the permit fee.

(Section 78.04 – Ord. 57 – Jan. 22 Supp.)

78.05 OPERATION REGULATIONS. The following apply to the operation of a UTV within the City:

- 1. Any operator of a UTV must have a valid full driver's license;
- 2. All riders in the UTV must remain seated at all times;
- 3. The maximum amount of passengers is determined by how many seatbelts are present or indicated in the manufacturer requirements for the vehicle. Example: no more than two adult people may ride in the front seat of a UTV if only two seatbelts exists and no more than two adult people may ride in the backseat of a UTV, if said seat belts exists;
- 4. While operating any rider must be seated on the seat and no part of the body of any rider will extend beyond the sides of the UTV;
- 5. Children must be accompanied by an adult driver and must follow all requirements of this section excluding the capacity limits as long as all children are seated on the seat(s) and no part of the body of the child extends beyond the sides of the UTV. No child shall be in the area of the operator or operator's position;
- 6. No passengers shall be transported in any cargo area or sitting on another passenger;
- 7. UTVs shall not be operated at a speed in excess of twenty-five (25) miles per hour;

8. In case of accidents resulting in injury or death to anyone, or property damage amounting to one thousand dollars (\$1,000) or more, the operator, or someone acting for the operator, shall immediately notify a law enforcement officer, and shall file an accident report within forty-eight (48) hours, in accordance with State law.

78.06 UNLAWFUL OPERATION. The following are considered unlawful operation of a UTV:

1. No UTVs shall be parked upon City sidewalks;
2. No UTVs shall be driven or operated on City sidewalks except while removing snow or debris;
3. No UTVs shall be parked or operated in City parks;
4. No UTV shall be operated while under the influence of intoxicating liquor, narcotics or habit-forming drugs;
5. No person shall operate a UTV in a careless, reckless or negligent manner endangering the person or property of another or causing injury or damage to same;
6. No UTV shall be operated upon that portion of the street located between the curb line and the sidewalk or property line, referred to as the "parking," except for purposes of crossing the same to a public street upon which operation is authorized by this chapter;
7. No item shall be towed by a UTV except a single axle utility trailer, no greater than eight (8) feet in length;
8. No UTV shall be operated upon private property without the express consent of the owner thereof;
9. No UTV shall be operated on roadways or other areas in cemeteries located in the City;
10. No UTV shall be operated during inclement weather when visibility is reduced or impaired by weather, smoke, fog or other conditions or at any other time there is insufficient light to clearly see a person or vehicle on a roadway at a distance of five hundred (500) feet;
11. No UTV shall be operated in a manner which violates Iowa Code Section 321, which shall be and is adopted as applicable to the operation of UTVs in the City as are all section of the New London City Code concerning the operation of motor vehicles.

78.07 PENALTY. In addition to the suspension or revocation of the UTV permit, a person who violates this chapter is guilty of a simple misdemeanor punishable as provided under Iowa Code.

1. Any person guilty of violating this chapter two (2) times shall be subject to permanent revocation of the City of New London permit.

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

(Ch. 78 – Ord. 48 – Jan. 19 Supp.)

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

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

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

addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

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

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

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

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination

as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

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

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

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

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

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

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

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

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CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals

81.03 Obstructing Streets
81.04 Crossing Maintenance

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

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

(Code of Iowa, Sec. 321.1)

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

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

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

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

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

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

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

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

(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Board of Trustees
90.02 Private Wells

90.03 Mandatory Connections

90.01 BOARD OF TRUSTEES. The management of the City's Waterworks Utility is the responsibility of the Utility Board of Trustees established and operated as described in Chapter 23 of this Code of Ordinances.

90.02 PRIVATE WELLS. No person shall install a private drinking or non-drinking water well, as defined in 567 Iowa Administrative Code 135.2, within City limits unless a determination has been made by the City Council that it is a closed loop system or the well location is greater than 1,000 feet from where an area of contamination requiring corrective action under Iowa law has been determined to exist. In addition, a drinking water well outside the 1,000 foot restricted area shall not be installed if the building to be served is within two hundred and fifty feet from an accessible water distribution main owned and controlled by the City.
(Ord. 25 – Jan. 14 Supp.)

90.03 MANDATORY CONNECTIONS. All residences (including but not limited to all dwelling units and multiple-family dwellings) and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system.
(Ord. 34 – Jan. 17 Supp.)

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required

95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (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 (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.

14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.

17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.

18. “Sewer” means a pipe or conduit for carrying sewage.

19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. “Superintendent” means the Public Works Supervisor of the City or any authorized deputy, agent, or representative.

23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

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

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 150 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

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

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

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

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

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

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

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Permit Fee
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements

96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. The fee for obtaining a permit to connect to a public sewer shall be determined by the Clerk based upon the following:

1. Inspection fee: \$30.00
2. Tapping fee if no wye exists: \$80.00 plus wye or saddle cost
3. Assessment Fees:
 - A. Trunk sewer and treatment assessment: \$200.00 per residential equivalent
 - (1) New construction multiple unit apartments: \$200 per residential equivalent
 - B. Lateral sewer assessment:
 - (1) If previously assessed: \$0.00
 - (2) If not previously assessed: \$6.00 per front foot up to a maximum of 150 feet per residential equivalent.

As used in this section, "residential equivalent" means the greater of: (i) single-family apartment, mobile home or residence; (ii) planned daily water usage during normal occupancy divided by 500 gallons per day except for single-family residences; (iii) planned daily pounds of BOD discharge during normal occupancy divided by 0.85 pounds per day except for single-family residences; or (iv) planned daily pounds of SS discharge during normal occupancy divided by 0.80 pounds per day except for single-family residences.

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

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code*, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth (1/4) inch per foot.
 - B. Minimum grade of one-eighth (1/8) inch per foot.
 - C. Minimum velocity of 2.00 feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 – A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.
13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of

water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

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

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

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

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

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

the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges
97.05 Restricted Discharges; Powers

97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes
97.09 Disconnection of Existing Foundation Drains

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

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

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

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

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° to 65° C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

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

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

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

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

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

97.09 DISCONNECTION OF EXISTING FOUNDATION DRAINS.

1. Maintenance of Existing Foundation Drains. Existing foundation drains discharging to the sanitary sewer system may be maintained in their present condition until the property is sold.
2. Change in Ownership. At the time of ownership of any property being served by the City sanitary sewer system is sold, the City shall require proof of the nonexistence of foundation drains or proof of their disconnection from the sanitary sewer as a precondition for providing any municipal utility services to the new owner.
3. Proof of Foundation Drain Nonexistence or Disconnection. Proof of foundation drain nonexistence or disconnection shall be demonstrated to the satisfaction of the Superintendent and shall be certified by the Superintendent to the Clerk. The Clerk shall forward a copy of the certificate of proof to the owner and shall keep a record of all such certificates so as to eliminate the need for any duplication of proof.
4. Inspection by Superintendent. If at any time after a property has been certified as not discharging foundation drains to the sanitary sewer the Superintendent wishes to recheck the property, the Superintendent shall have access to the property for such tests and observations as are appropriate. The owner of the property found to

be in noncompliance shall be subject to the penalty provision of Section 95.09 of this Code of Ordinances, or the suspension of municipal utility service, or both, at the discretion of the Council.

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

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

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

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

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

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

(IAC, 567-69.1[3])

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

(IAC, 567-69.1[3 & 4])

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

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

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Private Water Systems

99.04 Payment of Bills
99.05 Lien for Nonpayment
99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

Monthly Water Usage	Monthly Sewer Service Charge
First 1,500 Gallons	\$31.50 (Minimum Charge)
Next 3,500 Gallons	\$11.00 per 1,000 Gallons
Next 5,000 Gallons	\$10.00 per 1,000 Gallons
Next 5,000 Gallons	\$9.00 per 1,000 Gallons
Next 5,000 Gallons	\$8.00 per 1,000 Gallons
All Remaining Gallons	\$5.00 per 1,000 Gallons

On or before the 1st day of July of each year, the Council may review the current rates and approve up to a five percent (5%) increase annually by resolution.

(Ord. 27 – Jan. 15 Supp.)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer service charges in accordance with the rate schedule in Section 99.02 based on the equivalent usage of 100 gallons per occupant per day. Such customers may, at their option, pay for the City to install a water meter with remote reader on their private water system and agree to pay to the City an additional \$1.50 per month to cover the cost of reading and maintaining the meter. This option shall only be available to customers who are able to provide an acceptable frost-free location for the water meter. In addition, such customers shall sign a contract with the City giving the City the right to enter the premises for the purpose of installing, reading, and maintaining the water meter.

(Code of Iowa, Sec. 384.84)

(Ord. 21 – Jan. 13 Supp.)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable as part of a combined service account under the same terms and conditions as payment for water and electric service as established by the Utility Board of Trustees.

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

(Code of Iowa, Sec. 384.84)

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

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.08 Open Dumping Prohibited
105.02 Definitions	105.09 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.10 Waste Storage Containers
105.04 Health and Fire Hazard	105.11 Prohibited Practices
105.05 Open Burning Restricted	105.12 Nonresidents
105.06 Separation of Yard Waste Required	105.13 Recycling Program
105.07 Littering Prohibited	

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. “Building materials” (demolition and construction materials) means any material including, but not limited to, lumber, brick, concrete, plaster, floor coverings or other material accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures.
2. “Bulky waste” means non-putrescible solid waste consisting of noncombustible waste materials from dwelling units and commercial, industrial, institutional, or agricultural establishments which are less than 60 pounds in weight.
3. “Business waste” means, but is not limited to, any waste accumulation of paper and cardboard, packing materials, rags, garbage or other materials, which are usually attendant to the operation of stores, offices and similar businesses.
4. “Collector” means any person authorized to gather solid waste from public and private places.
5. “Commercial establishment” means any retail, manufacturing, wholesale, institutional, religious, or governmental establishment and multiple-family dwelling.
6. “Discard” means to place, cause to be placed, throw, deposit or drop.
(Code of Iowa, Sec. 455B.361[2])
7. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
8. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
9. “Industrial waste” means all waste, including solids, semi-solids, sludges and liquids, created by factories, restaurants, processing plants or other manufacturing enterprises.

10. “Landscape waste” means any trees, tree trimmings, branches, stumps, brush and sticks.

(IAC, 567-20.2[455B])

11. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

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

12. “Multiple-family dwelling” means any apartment, group of apartments or condominium containing two or more dwelling units.

13. “Open burning” means any fire in an outside location.

14. “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.

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

(IAC, 567-100.2)

16. “Residential premises” means a single-family dwelling.

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

20. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

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

21. “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 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.
22. "Yard waste" means weeds, leaves, grass, shrubbery, and yard trimmings.

(Ord. 29 – Dec. 15 Supp.)

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

(Code of Iowa, Ch. 657)

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

105.05 OPEN BURNING RESTRICTED. No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain, kindle or maintain within the City any open burning fire. The following exceptions shall be included:

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

(IAC, 567-23.2[3e])

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

(IAC, 567-23.2[3g])

3. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

4. Discontinuance. The Fire Chief, police department or their designee may prohibit any or all such fires when atmospheric conditions or local circumstances make such fires hazardous or whenever such fires are (or could be) offensive or objectionable due to smoke or odor emissions. The Fire Chief, police department or their designee shall order the extinguishment, by the property owner or by the fire department, police department or their designee, of any such fire which creates a nuisance or which either creates or adds to a hazardous or objectionable situation.

(Ord. 45 – Jan. 18 Supp.)

105.06 SEPARATION OF YARD WASTE REQUIRED.

1. 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 set out for collection in accordance with the provisions of this section. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

2. Brush, trees, and shrubbery limbs will be collected in accordance with the City’s collection schedule if they are securely tied with a disposable rope in bundles no more than three feet long or heavier than 50 pounds. Leaves, grass clippings, or twigs may be put in 32-gallon disposable containers. The City will not collect trees, branches, limbs, or shrubbery larger than six inches in diameter, longer than three feet and heavier than 50 pounds. Trees, shrubbery branches, limbs, and trimmings cut by landscape or tree service contractors or other commercial workers or resulting from the clearing of land shall not be collected by the City.

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

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

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

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

105.09 TOXIC AND HAZARDOUS WASTE.

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

(IAC, 567-100.2)

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

2. All dangerous waste items and material of an injurious nature such as broken glass, light bulbs, sharp pieces of metal, fluorescent tubes, syringes, and lancets shall be securely wrapped to prevent injury to collection personnel. Unwrapped dangerous waste items shall not be placed in plastic bags and set out for collection by the City.

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:

- A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices. All solid waste set out for collection must be placed in disposable garbage bags. The total weight of any container and contents shall not exceed 45 pounds and 35-gallons.

- 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; 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.

- A. Alleys. Where City collections are made from the alley, solid waste containers shall be placed at the rear of the premises within three feet of the edge of the traveled portion of the alley.

- B. Streets. Where City collections are made from the street, solid waste containers shall be placed within three feet of the curb line. Solid waste containers shall not be placed upon any public sidewalk or street.

Containers for the storage of solid waste awaiting collection shall not be placed at the point of collection earlier than 7:00 a.m. the day before the collection or later than 7:00 a.m. on the day of collection and shall be removed from the point of collection no later than 24 hours after collection.

4. Building Materials. The City will not collect building materials.

5. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected. A warning shall be issued for the first offense; a fee of \$10.00 shall be charged for the second offense, \$25.00 for the third offense, and \$100.00 for the fourth offense and each subsequent offense.

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

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

105.12 NONRESIDENTS. It is unlawful for any nonresident of the City to dispose of solid waste within the City limits without paying the proper collection fee. The City will collect solid waste from residential and commercial units within ½ mile radius of the City upon request from the owner of that property.

105.13 RECYCLING PROGRAM. The City shall provide for the collection of recyclable material through the Des Moines County Recyclers. All recyclable material shall be separated and prepared for collection in accordance with the rules and regulations as established by the Des Moines County Recyclers.

(Ch. 105 - Ord. 11 – Jan. 12 Supp.)

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CHAPTER 106

COLLECTION OF SOLID WASTE

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

106.06 Right of Entry
106.07 Collector's Permit
106.08 Designated Disposal Site
106.09 Collection Fees
106.10 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide for the collection of all solid waste except bulky waste as provided in Section 106.05 within the City. The owners or operators of commercial establishments may utilize the City collection service or shall provide for the collection of solid waste produced upon such premises 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.

(IAC, 567-104.9[455B])

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

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY WASTE. Bulky waste will be collected from residential premises on regular collection days if it is less than sixty pounds in weight. All other bulky waste, such as refrigerators, freezers, washers, dryers, stoves, furnaces, water heaters, microwaves, and air conditioners will be collected by the City for a fee established by the Council. Residents must obtain a receipt from City Hall and attach it to the bulky item to be collected.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter. If City collection personnel must enter into private property for the purpose of collecting solid waste therefrom, the owner of such property must give written permission for such entry.

106.07 COLLECTOR'S PERMIT. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining an annual permit from the Des Moines County Regional Solid Waste Commission.

106.08 DESIGNATED DISPOSAL SITE. All solid waste produced or originating within the City shall be transported to the Des Moines County Regional Landfill unless the collector obtains a written waiver from the City to deposit solid waste at an alternate site identified and included in the Comprehensive Plan of the Des Moines County Regional Solid Waste Commission.

106.09 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served and eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Schedule of Fees. The monthly fees for solid waste collection and disposal service are:

A.	Residential Customers.....	\$ 17.10
B.	Nonresidential Customers	\$ 21.20
C.	Senior Citizen Customers.....	\$ 16.10
D.	Commercial Hand Pickup Customers	\$ 17.50
E.	Three 96 Gallon Carts	\$ 36.70
F.	2.0 Cubic Yard Container.....	\$ 43.50
G.	3.0 Cubic Yard Container.....	\$ 57.10
H.	4.0 Cubic Yard Container.....	\$ 64.00

2. Payment of Bills. All fees are due and payable as part of a combined service account under the same terms and conditions as payment for water and electric service as established by the Utility Board of Trustees.

(Section 106.09 – Ord. 53 – Jan. 20 Supp.)

106.10 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Utility to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

(Ch. 106 - Ord. 11 – Jan. 12 Supp.)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Grant of Franchise
110.02 Indemnification
110.03 Excavations
110.04 Location of Facilities

110.05 Standards of Service
110.06 Nonexclusive Franchise
110.07 Term of Franchise
110.08 Entire Agreement

110.01 GRANT OF FRANCHISE. There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right, franchise, and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of the ordinance codified in this chapter,[†] to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City, as now or hereafter constituted, for the purpose of distributing, supplying, and selling gas to the City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term “gas” as used in this franchise shall be construed to mean natural gas only.

110.02 INDEMNIFICATION. The mains and pipes of the Company must be so placed as not to unnecessarily interfere with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City 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 laying down, operation and maintenance of said natural gas distribution system.

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

110.04 LOCATION OF FACILITIES. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley 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

[†] **EDITOR’S NOTE:** Ordinance No. 3 adopting a natural gas franchise for the City was passed and adopted by the Council on July 7, 2009.

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

110.05 STANDARDS OF SERVICE. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

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

110.07 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted hereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company.

110.08 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, the ordinance codified in this chapter shall supersede, abrogate and repeal the prior gas system ordinance between the Company and the City as of the date this ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

(Ch. 110 - Ord. 3 – Sep. 09 Supp.)

CHAPTER 111

TELEPHONE FRANCHISE

111.01 Grant of Franchise
111.02 Franchise Term
111.03 Police Power of City

111.04 Indemnity
111.05 Standards of Construction and Operation

111.01 GRANT OF FRANCHISE. There is hereby granted unto Iowa Telecom (the “Grantee”), and to its successors and assigns, the right, privilege, and franchise to locate, erect, construct, relocate, replace, extend, enlarge, repair, operate and maintain a general telephone system and exchange in the City and to enter upon, use, and occupy the streets, roads, avenues, highways, alleys, boulevards, public grounds, and other public places in the City, in the supplying and furnishing to persons and firms and corporations residing in the City, and to persons and firms and corporations beyond the limits of the City, communication by telephone, with the right, privilege and franchise to locate, erect, construct, relocate, replace, extend, enlarge, repair, operate, and maintain all necessary and convenient poles, conduits, manholes, apparatus, service pipes, fixtures, wires, cables, cross-arms, appliances, connections, and appurtenances, and to make house and building connections upon, on, along, in, under, across, through, and over said streets, roads, avenues, highways, alleys, boulevards, public grounds, and other public places in the City, as are requisite for the complete equipment and furnishing and supplying of communication by telephone and in receiving and transmitting intelligence by electricity for all purposes, in any manner and by any method or device.

111.02 FRANCHISE TERM. The right, privilege, and franchise herein and hereby granted shall extend for a period of 25 years from and after the date that the Ordinance codified herein became effective.[†]

111.03 POLICE POWER OF CITY. The rights, privileges, and franchise herein and hereby granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

111.04 INDEMNITY. The Grantee and its successors and assigns shall at all times protect and save harmless the City from all damages or loss from or arising out of or by reason of the construction or maintenance or operation of said telephone system and exchange, except as may be the result of negligence on the part of the employees of the City.

111.05 STANDARDS OF CONSTRUCTION AND OPERATION. The Grantee and its successors and assigns, in constructing, maintaining, and operating the telephone system and exchange, and in the use of streets, roads, avenues, highways, alleys, boulevards, and other public places in the City, shall perform all necessary and convenient work with due care and with reasonable dispatch; and shall not unnecessarily obstruct travel; and shall protect the place while said work is in progress by guards, barriers or signals; and shall backfill all

[†] **EDITOR’S NOTE:** Ordinance No. 90, granting a telephone franchise for the City to Contel of Iowa, Inc., d/b/a GTE IOWA, was passed and adopted on September 3, 1991. Voters approved the franchise at an election held on November 5, 1991. The franchise is now held by Iowa Telecom, successor to GTE.

openings made in such a manner as to prevent settling or depressions in the surface, and shall replace the surface, pavement, and sidewalk of any excavations made by with the same or like material, so as to restore same, as nearly as is practical, to its condition prior to such excavation; and shall not unnecessarily interfere with any water mains, gas mains, sewer, or drains which are now or may hereafter be laid, except as the prior consent of the Council is first obtained; and shall repair any defects caused by said Grantee or successor.

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CHAPTER 112

CABLE TELEVISION FRANCHISE

112.01 Definitions	112.08 Enforcement and Termination of Franchise
112.02 Grant of Franchise	112.09 Actions of Parties
112.03 Standards of Service	112.10 Amendments
112.04 Regulation by the City	112.11 Reservation of Rights
112.05 Books and Records	112.12 Notice
112.06 Insurance	112.13 Term of Franchise
112.07 Indemnification	

112.01 DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words, and abbreviations have the meanings ascribed to them.

1. “Basic cable service” is the lowest priced tier of cable service that includes the retransmission of local broadcast television signals.
2. “Cable Act” means Title VI of the Cable Act of 1934, as amended.
3. “Cable services” means: (i) the one-way transmission to subscribers of video programming or other programming services; and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
4. “Cable system” means the Grantee’s facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the service area.
5. “FCC” means Federal Communications Commission, or successor governmental entity thereto.
6. “Grantee” means MCC Iowa LLC, or the lawful successor, transferee, or assignee thereof.
7. “Gross revenues” means revenues derived from the operation of the cable system received by Grantee from subscribers for cable services in the service area; provided, however, “gross revenues” does not include franchise fees, the FCC user fee or any tax, fee, or assessment of general applicability collected by the Grantee from subscribers for pass-through to a government agency.
8. “Person” means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
9. “Public way” means the surface of and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the City in the service area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the cable system.

10. "Service area" means the present boundaries of the City, and includes any additions thereto by annexation or other legal means, subject to the exceptions in subsection 112.03(9) of this chapter.

11. "Standard installation" is defined as 125 feet from the nearest tap to the subscriber's terminal.

12. "Subscriber" means a person who lawfully receives cable service of the cable system with the Grantee's express permission.

112.02 GRANT OF FRANCHISE.

1. Grant. The City hereby grants to the Grantee a nonexclusive franchise which authorizes the Grantee to construct and operate a cable system in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the cable system for the transmission and distribution of cable services, data services, information and other communications services or for any other lawful purposes.

2. Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by the franchise. Neither party may unilaterally alter the material rights and obligations set forth in this chapter. In the event of a conflict between any ordinance and this chapter, this chapter shall control.

3. Other Authorizations. The City shall not permit any person to provide services similar to those provided by the Grantee in the service area without first having secured a nonexclusive franchise from the City. The City agrees that any grant of additional franchises or other authorizations including OVS authorizations by the City to provide services similar to those provided by the Grantee pursuant to this chapter to any other entity shall cover the entire service area and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of the franchise, the City, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchises or authorizations previously granted and find that the proposed increased obligations in the renewal are not more burdensome and/or less favorable than those contained in any such additional franchises or authorizations.

112.03 STANDARDS OF SERVICE.

1. Conditions of Occupancy. The cable system installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways.

2. Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, Grantee shall replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

3. Relocation for the City. Upon its receipt of reasonable advance written notice, not to be less than ten business days, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in, or remove from the public way any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property.
4. Relocation for a Third Party. The Grantee shall, on the request of any person holding a lawful permit issued by the City, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (i) the expense of such is paid by said person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (ii) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than 30 business days in the event of a temporary relocation, and no less than 120 days for a permanent relocation.
5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the cable system.
6. Safety Requirements. Construction, operation, and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable Federal, State, and local regulations and the *National Electric Safety Code*.
7. Underground Construction. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its cable system underground. Nothing contained in this subsection shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.
8. Access to Open Trenches. The City agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the City agrees to require as a condition of issuing a permit for open trenching to any utility or developer that: (i) the utility or developer give the Grantee at least ten days' advance written notice of the availability of the open trench; and (ii) that the utility or developer provide the Grantee with reasonable access to the open trench. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.
9. Required Extensions of the Cable System. Grantee agrees to provide cable service to all residences in the service area subject to the density requirements specified in this subsection. Whenever the Grantee receives a request for cable service from a potential subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least ten residences within 1,320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its cable system to such subscribers at no cost to said subscribers for the cable system extension, other than the published standard/non-standard installation fees charged to all subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the cable system into any portion of the service area where another operator

is providing cable service, into any annexed area which is not contiguous to the present service area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

10. Subscriber Charges for Extensions of the Cable System. No subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection 9 above, the Grantee shall only be required to extend the cable system to subscribers in that area if the subscribers are willing to share the capital costs of extending the cable system. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1,320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals 10. Subscribers who request service hereunder shall bear the remaining cost to extend the cable system on a pro rata basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the cable system from the tap to the residence.

11. Cable Service to Public Buildings. The Grantee, upon request, shall provide without charge, a standard installation and one outlet of basic cable service to those administrative buildings owned and occupied by the City, fire stations, police stations, and K-12 public schools that are passed by its cable system. The cable service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The cable service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The City shall take reasonable precautions to prevent any inappropriate use of the Grantee's cable system or any loss or damage to Grantee's cable system. The City shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of cable service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-standard installation is required, unless the City or building owner/occupant agrees to pay the incremental cost of any necessary cable system extension and/or non-standard installation. If additional outlets of basic cable service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

12. Emergency Alert. Any Emergency Alert System ("EAS") provided by Grantee shall be operated in accordance with FCC regulations. Any use of such EAS by the City will be only in accordance with the applicable State and local plans as approved in accordance with such FCC regulations. Except to the extent expressly prohibited by law, the City will hold the Grantee, its employees, officers and assigns harmless from any claims arising out of use of the EAS, including but not limited to reasonable attorneys' fees and costs.

13. Reimbursement of Costs. If funds are available to any person using the public way for the purpose of defraying the cost of any of the foregoing, the City shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the City shall make application for such funds on behalf of the Grantee.

112.04 REGULATION BY THE CITY.

1. Franchise Fee. The Grantee shall pay to the City a franchise fee of five percent of annual gross revenues (as defined in Section 112.01 of this chapter). In

accordance with the Cable Act, the 12-month period applicable under the franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be due semiannually and payable within 60 days after the last day of June and the last day of December. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

2. Limitation on Franchise Fee Actions. The period of limitation for recovery by the City of any franchise fee payable hereunder shall be three years from the date on which payment by the Grantee is due to the City.

3. Rates and Charges. The City may regulate rates for the provision of basic cable service and equipment as expressly permitted by Federal law.

4. Renewal of Franchise. The City and the Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Grantee's franchise shall be governed by and comply with the renewal provisions of Federal law. In addition to the procedures set forth in the Cable Act, the City agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then-current franchise term. The City further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal pursuant to the Cable Act and complete renewal of the franchise prior to expiration of its term. Notwithstanding anything to the contrary set forth in this subsection, the Grantee and the City agree that at any time during the term of the then-current franchise, while affording the public appropriate notice and opportunity to comment in accordance with the provisions of Federal law, the City and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then-current franchise and the City may grant a renewal thereof. The Grantee and the City consider the terms set forth in this subsection to be consistent with the express renewal provisions of the Cable Act.

5. Conditions of Sale. If a renewal or extension of the Grantee's franchise is denied or the franchise is lawfully terminated, and the City either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

6. Revocation; Transfer. The Grantee and the City agree that in the case of a final determination of a lawful revocation of the franchise, the Grantee shall be given at least 12 months to effectuate a transfer of its cable system to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the City, the Grantee and the City may avail themselves of any rights they may have pursuant to Federal or State law. It is further agreed that the Grantee's continued operation of the cable system during the 12-month period shall not be deemed to be a waiver or an extinguishment of any rights of either the City or the Grantee.

7. Transfer of Franchise. The Grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without

prior written notice to the City. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the franchise or cable system in order to secure indebtedness.

112.05 BOOKS AND RECORDS. The Grantee agrees that the City, upon 30 days' written notice to the Grantee and no more than once annually may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms of this chapter. Such notice shall specifically reference the subsection of this chapter that is under review so that the Grantee may organize the necessary books and records for easy access by the City. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the City's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for franchise compliance purposes longer than three years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, or to disclose books and records of any affiliate which is not providing cable service in the service area. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

112.06 INSURANCE. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the franchise, Commercial General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The City shall be designated as an additional insured. Such insurance shall be non-cancelable except upon 30 days' prior written notice to the City. Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this section.

112.07 INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless, and defend the City, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its cable system in the service area provided that the City shall give the Grantee written notice of its obligation to indemnify the City within ten days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the City for any damages, liability, or claims resulting from the willful misconduct or negligence of the City.

112.08 ENFORCEMENT AND TERMINATION OF FRANCHISE.

1. Notice of Violation. In the event that the City believes that the Grantee has not complied with the any material term of the franchise, the City shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the City shall notify the Grantee in writing of the exact nature of such alleged noncompliance.

2. The Grantee's Right to Cure or Respond. The Grantee shall have 30 days from receipt of the notice described in subsection 1: (i) to respond to the City, contesting the assertion of such noncompliance; or (ii) to cure such default; or (iii) in

the event that, by the nature of such default, it cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 1 pursuant to the procedures set forth in subsection 2, or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to subsection 2 above, if it intends to continue its investigation into the default, then the City shall schedule a public hearing. The City shall provide the Grantee at least 10 days' prior written notice of such hearing, which specifies the time, place, and purpose of such hearing, and provide the Grantee the opportunity to be heard.

4. Enforcement. Subject to applicable Federal and State law, in the event the City, after the hearing set forth in subsection 3, determines that the Grantee is in material default of any provision of the franchise, the City may:

A. Commence an action at law for monetary damages or seek other equitable relief; or

B. In the case of repeated or ongoing substantial noncompliance with a material term or terms of the franchise, seek to revoke the franchise in accordance with subsection 5.

5. Revocation. Should the City seek to revoke the franchise after following the procedures set forth in subsections 1 through 4 above, the City shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have 90 days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from the Grantee, it may then seek termination of the franchise at a public hearing. The City shall cause to be served upon the Grantee, at least 30 days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the franchise. At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the City, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing. Following the hearing, the City shall determine whether or not the franchise shall be revoked. If the City determines that the franchise shall be revoked, the City shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the City to an appropriate court which shall have the power to review the decision of the City *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within 60 days of Grantee's receipt of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

6. Force Majeure; Good Faith Errors. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the franchise, or suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances

reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's cable system is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary. Furthermore, the parties hereby agree that it is not the City's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the franchise for violations of the franchise where the violation was a good faith error that resulted in no or minimal negative impact on the subscribers within the service area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the City and/or subscribers.

112.09 ACTIONS OF PARTIES. In any action by the City or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

112.10 AMENDMENTS. The franchise constitutes the entire agreement between the Grantee and the City and supersedes all other prior understandings and agreements oral or written. Any amendments to this chapter shall be mutually agreed to in writing by the parties.

112.11 RESERVATION OF RIGHTS. Acceptance of the terms and conditions of the franchise will not constitute (or be deemed to constitute) a waiver, either express or implied, by the Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The City acknowledges that Grantee reserves all of its rights under applicable Federal and State constitutions and laws. If at any time during the term of the franchise, Federal, State or local law permits any provider of video programming to provide services such as those provided pursuant to this chapter either without obtaining a franchise from the City or on terms or conditions more favorable than those applicable to the franchisee (Grantee), then this franchise shall at the sole discretion of the Grantee: (i) cease to be in effect; or (ii) be deemed to expire at a date prior to the original expiration date selected by the Grantee; or (iii) will be automatically reformed to grant to the Grantee the more favorable terms, benefits, and conditions available to the other provider.

112.12 NOTICE. Unless expressly otherwise agreed between the parties, every notice or response required by this chapter to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: (i) upon receipt when hand delivered with receipt/acknowledgment; (ii) upon receipt when sent certified, registered mail; (iii) within five business days after having been posted in the regular mail; or (iv) the next business day if sent by express mail or overnight air courier.

112.13 TERM OF FRANCHISE. The franchise shall be for a term of five years from final adoption of the ordinance codified herein by the City.[†]

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[†] **EDITOR'S NOTE:** Ordinance No. 06-11A was passed and adopted on November 7, 2006.

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
120.07 Outdoor Service Area Regulations

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

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

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

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

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

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

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

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

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

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

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or

permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

(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 which has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which 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 which 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 twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) 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 “C” beer permit only.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

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

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

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

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

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

120.07 OUTDOOR SERVICE AREA REGULATIONS.

1. Approval Required. Any permittee or licensee under this chapter or any applicant for a license or permit under this chapter desiring to operate an outdoor service area adjacent to and in conjunction with a licensed premises must obtain the approval of the Council and of the Iowa Alcoholic Beverages Division before commencing operation of such outdoor service area.

2. Application for Approval.

A. An application for an outdoor service area shall be made upon the form provided by the State. Such application may accompany the initial application or any renewal application for a license or permit or may be submitted at any time in conjunction with an amended application for a license or permit.

B. An application for the approval of an outdoor service area shall include all information required to be submitted with applications for beer and liquor licenses and permits. The application shall be submitted to the Clerk at least fifteen (15) days prior to the date it is to be considered by the Council. An outdoor service area shall be subject to the same annual renewal requirements as are all beer and liquor licenses and permits. Approval by the Council of an outdoor service area shall be by application to the Iowa Alcoholic Beverages Division with regard to the diagram, dramshop insurance coverage and all other State requirements.

- C. Upon submitting an application for an outdoor service area, the applicant shall contact and provide the name and address of the owner of each abutting property as well as every other property which is within one hundred (100) feet of applicant's premises regarding the applicant's intent to establish or renew an outdoor service area. Such notice must be posted at least ten (10) days prior to the date and time when the application will appear on the agenda for approval by the Council.
- D. Approval or disapproval of an application for an outdoor service area shall be at the discretion of the Council. Such discretion shall be exercised with due regard to public health, safety and welfare considerations. In the event that there is a change of ownership, the outdoor service area use shall be permitted to continue, provided the usage is continuous.
3. Regulation of Outdoor Service Areas. The operation of an outdoor service area shall be subject to the following terms, conditions and regulations:
- A. Location Restrictions.
- (1) Outdoor service areas must be located on private property and have a ten (10) foot set back from all property lines unless the owner of the adjacent property gives their consent that it may be located closer. If the property is located on Main Street there must be a twenty-five (25) foot set back from the property line located adjacent to Main Street.
- (2) An outdoor service area must be immediately adjacent to the licensed establishment of which it is a part of with the required fencing.
- B. Screening From Public View. Outdoor service areas are required to provide and maintain a permanent decorative fence or other suitable barrier at least six (6) feet in height but no more than eight (8) feet in height, as approved by the Council, which is entirely opaque with no visual distance between slats.
- C. Entrances and Exits. Entrance to the outdoor service area shall only be allowed from within the licensed premises. Exits shall prevent entrance to the outdoor service area from locations other than inside the licensed premises. Emergency exits shall comply with applicable State requirements.
- D. Hours of Operation. Outdoor service areas may operate only between the hours of 5:00 pm and 12:00 midnight seven days a week.
- E. Noise Restrictions. Amplified sound equipment is prohibited in outdoor service areas.
- F. Occupancy Limits. The owner or operator of an outdoor service area shall be required to observe the same per square foot occupancy limits that apply to the building which it abuts. The occupancy limit for each outdoor service area shall be determined by the Fire Chief. In the event inclement weather requires early closing of the outdoor service area, the licensee or permittee shall not allow patrons of the outdoor service area to enter that portion of the licensed premises housed in the adjacent building if to do so would result in exceeding the occupancy limits therefore as determined by the Fire Chief.

- G. Advertising and Signs. Signs indicating the establishments name shall be permitted on the side of the fence, or other screening barrier, that faces away from the permitted premises as long as they are within the limitations of the zoning regulations. All other signs and advertisements of any form are not allowed on the side of the fence, or other screening barrier, that faces away from the permitted premises.
- H. The outdoor service area must have adequate lighting to allow for the identification of individuals within that area.
- I. Compliance With City and State Provisions. Outdoor service areas shall comply with appropriate building, housing and fire regulations and with all other applicable State and City laws.
4. Temporary Outdoor Service Areas. An outdoor service area open for no more than 3 consecutive days in any single year shall be considered temporary. The operation of a temporary outdoor service area shall be subject to the following terms, conditions and regulations:
- A. Location Restrictions.
- (1) Temporary outdoor service areas may not be located upon or encroach on any public right-of-way that is open for vehicular traffic without approval from the Council.
- (2) The temporary outdoor service area must be adjacent to the licensed establishment of which it is a part.
- B. Entrances and Exits. Access to the temporary outdoor service area shall be limited in compliance with the regulations of the Iowa Alcoholic Beverages Division. Emergency exits shall comply with applicable State requirements.
- C. Hours of Operation. Temporary outdoor service areas may operate only during the hours that are authorized by the Council.
- D. Noise Restrictions. Compliance with the New London Code of Ordinances shall be required.
- E. Advertising and Signs. Additional advertising or identification signage beyond that permitted for the main licensed establishment shall not be permitted without approval from the Council.
- F. Compliance With City and State Provisions. Temporary outdoor service areas shall comply with appropriate building, housing and fire regulations and with all other applicable State and City laws.
5. Inspections. Outdoor service areas shall be subject to inspection at least annually at the same time inspection of the adjacent licensed establishment occurs. The City may, in its discretion, inspect an outdoor service area at any other time.
6. Suspension or Revocation of Permission to Operate an Outdoor Service Area.
- A. The Council may, after written notice to the licensee or permittee and after hearing before the Council, suspend or revoke authorization for the operation of an outdoor service area for any establishment when the licensee or permittee has violated or has permitted or allowed the violation of any provision of the Code of Iowa, the terms and conditions of the permit, or this

chapter pertaining to the operation of an outdoor service area or when the continued operation of the outdoor service area constitutes a threat to public health, welfare or safety or constitutes a nuisance.

B. The suspension/revocation procedure shall be initiated by the Police Chief or Mayor by the filing of an administrative complaint with the Council. Written notice of hearing, as well as a copy of said complaint, shall be served upon the licensee or permittee at least ten (10) calendar days prior to the date set for hearing. In the event of suspension or revocation, the City shall notify the Iowa Alcoholic Beverages Division.

C. Notwithstanding the provisions of paragraphs A and B of this subsection, the Council may order the immediate closure of an outdoor service area if it is determined that its continued operation presents a clear and imminent threat to public health, safety, and welfare or complete disregard for the established City Code and operational regulations.

D. Suspension or revocation of authorization by the City for operation of an outdoor service area shall not affect the licensing of the principal establishment unless separate action to suspend or revoke that license/permit is also initiated.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 453A.1*)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Suspension or Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Insurance and Bond	122.16 Effect of Revocation
122.07 License Issued or Denied	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Restrictions	122.20 Penalty

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who goes from house to house, from place to place, or from street to street, soliciting or taking orders for sale of goods, foods which are not potentially hazardous foods, wares or merchandise, including but not limited to magazines, books, photographs, periodicals, or personal property, for future delivery or for a service to be performed in the future.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

1. An applicant for a license under this chapter shall provide to the Clerk reliable individual identification as determined by the Clerk, and shall file with the Clerk a sworn application in writing, which shall give all of the following information:

- A. The name and physical description of the applicant;

- B. The permanent home address and also the local address of the applicant;
 - C. A brief description of the nature of the business and the goods to be sold;
 - D. The proposed location, address, route, and/or area in which the business is to be operated;
 - E. The name and address of the applicant's employer, if the applicant has an employer;
 - F. The length of time for which the right to do business is desired;
 - G. If the applicant's employer is a corporation, the state of its incorporation; evidence it is authorized to do business in Iowa; evidence that the corporation has designated a resident agent in the City upon whom legal service may be made; and evidence that the corporation will be responsible for the acts of its employees in the City;
 - H. A statement as to whether or not the applicant has been convicted of any felony, aggravated or serious misdemeanor, or a violation of any municipal ordinances other than a traffic ordinance. The applicant shall provide information on each such offense or pending charges of each such offense, including the nature of the offense, date of the offense, and penalty imposed for the offense;
 - I. The names and location of the last three municipalities where the applicant carried on business immediately preceding this application, and the addresses from which such business was conducted in these municipalities;
 - J. A description of any motor vehicles to be used in conjunction with the applicant's operation and their respective license plate numbers;
 - K. A statement that the applicant agrees to leave private property promptly when requested to do so by the owner, tenant, occupant, or person in control of the property;
 - L. A statement that the applicant will not enter upon private property where a sign is posted indicating *no solicitation allowed*, *no solicitors*, *do not disturb*, or words of similar import of any of the phrases;
 - M. Proof of insurance and/or bond as required by Section 122.06 of this chapter;
 - N. Other pertinent information requested by the Clerk; including but not limited to employer identification and sales tax permit information.
2. In determining whether a license under this chapter should be granted or denied, standards including but not limited to the following shall be taken into consideration:
- A. Whether the proposed activity is likely to cause undue congestion of a public area;
 - B. The number and nature of past and present complaints against the applicant for activities including but not limited to misrepresentation, fraud,

selling defective merchandise, entering property posted pursuant to Section 122.10(2) or failure to promptly leave property when so requested;

C. Whether the applicant has been convicted of a violation of a similar ordinance within the last five years;

D. Whether the applicant has been convicted within the last five years of any felony, aggravated or serious misdemeanor, violation of any municipal ordinance other than a traffic offense, that would relate to the public health, welfare, safety and/or morals in the applicant's conduct of business under the license;

E. Whether the proposed activity is likely to cause excessive or unusual noise in violation of this Code of Ordinances.

3. The Chief of Police shall conduct a background investigation of all applicants including a check of the applicants background by the Department of Criminal Investigation.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

	One Day	One Month	One Year
Peddlers	N/A	\$30	\$300
Solicitors	N/A	\$30	\$300
Transient Merchants	\$15	\$30	\$300

122.06 INSURANCE AND BOND.

1. Insurance Required. All licensees under this chapter shall provide proof of general liability insurance including products liability in the amount of \$300,000 per occurrence and \$100,000 for property damage. A certificate of insurance shall be delivered to the Clerk prior to the issuance of a license. The City and its employees shall be named as additional insureds against any liabilities that may arise in connection with the operations of the licensees.

2. Bond Required for Transient Merchants. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED OR DENIED. The Clerk, upon satisfaction that the application for license as provided for in this chapter, is true, correct, and complete and upon payment of the license fee and compliance with the requirements of this chapter shall issue the license. If the Clerk refuses to issue a license, the Clerk shall endorse the reasons upon the application.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 RESTRICTIONS.

1. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m. If a licensee is expressly invited back to or into the home of a prospective customer or donor outside of these hours at the request of said customer or donor, the licensee is exempt from this requirement and shall be considered an invited guest of the customer or donor;
2. No licensee under this chapter shall refuse to exhibit that license when requested by a customer, potential customer, or City employee. No licensee under this chapter shall refuse to leave private property when requested to do so by the owner, tenant, occupant or person in control of the property. No licensee under this chapter shall enter upon private property and contact the owner, tenant, occupant or person in control of the property, when the private property has posted thereon a sign indicating *no solicitation allowed*, *no solicitors*, *do not disturb*, or words of similar import of any of these phrases;
3. It shall be unlawful for any person, whether licensed under this chapter or not, to sell, peddle, or solicit any person to purchase any article or service whatsoever in a public park or on the sidewalks adjacent to said park on both sides of the right-of-way, when that park has been rented by or reserved by a person or organization for a specific event and that event is taking place;
4. No transient merchant shall be permitted to operate from one location for more than seven (7) consecutive days; and no other transient merchant shall be permitted to operate another business at that location within the immediate thirty (30) days following the previous transient merchant;
5. The Council reserves the right to require the relocation of any licensed transient merchant to a new location in the event public safety or congestion so requires, based on the discretion of the Council;
6. Persons or entities having valid contracts with the City authorizing activities falling within the scope of this chapter are excepted from the terms of said subsection for the activities specifically authorized in the contract.

122.11 SUSPENSION OR REVOCATION OF LICENSE.

1. Suspension. A license under this chapter may be temporarily suspended by the Clerk or Police Chief when upon investigation the Clerk or Police Chief finds any of the following:
 - A. The licensee has made fraudulent, false, or incorrect statements in the application or in the conduct of the licensee's business;
 - B. The licensee has violated this chapter or has otherwise conducted the licensed business or activity in an unlawful manner, or contrary to the provisions of this Code of Ordinances applicable thereto;
 - C. The licensee has conducted business in a manner endangering the public welfare, health, safety, or morals;

D. The license may be temporarily suspended by serving notice on the licensee by personal service or as required for personal service by the Iowa Rules of Civil Procedure. The notice shall state the reasons for suspension and shall state that the licensee has the right to appeal the suspension to the Council by filing an appeal with the Clerk within five (5) days of the receipt of the notice. The appeal shall be conducted pursuant to the procedure of Section 122.15 of this chapter but conducted as an appeal of a suspension, not a revocation. The licensee shall not conduct activity permitted by the license while the license is temporarily suspended.

2. Revocation. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

A. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

B. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

C. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes, suspends, or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present, if there is a quorum, and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one (1) year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for

which the license was issued and then multiplying the result by the number of full days not
expired. In all

cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the New London School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

122.20 PENALTY. A violation of any requirement or provision of this chapter shall constitute a municipal infraction, and upon conviction, violators shall be subject to the penalties set forth in Section 3.03 of this Code of Ordinances. Nothing in this section shall prohibit City officials or law enforcement from issuing criminal citations or initiating any other administrative actions against a violator or the employer of a violator, whether in addition to or in lieu of initiating municipal infraction proceedings as described above.

(Ch. 122 – Ord. 50 – Jan. 20 Supp.)

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Issued

123.07 Public Safety
123.08 Time Limit
123.09 Removal by City
123.10 Protect Pavement
123.11 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000 per person; \$100,000 per accident.
2. Property Damage – \$50,000 per accident.

123.06 PERMIT ISSUED. Upon approval of the application and filing of bond and insurance certificate, the Clerk shall issue a permit.

123.07 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.08 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.08 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.10 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.11 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

B. A statement of the purpose, for whom and by whom the excavation is to be made;

C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$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 with a combined single limit of no less than \$1,000,000.00.

(Ord. 17 – Jan. 13 Supp.)

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 twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Fee. A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly fee of two hundred fifty dollars (\$250.00).

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs, and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's

property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Responsibility for Maintenance	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 Specifications	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. “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.
2. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
3. “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.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours after the accumulation, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK SPECIFICATIONS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be constructed in accordance with specifications therefor adopted by resolution of the Council. A copy of said specifications shall be kept on file in the office of the Clerk.

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

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CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor, and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of New London, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

UNSAFE BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay, or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

(Ord. 35 – Jan. 17 Supp.)

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

6. Water and Sewer Services. Whenever a building occupied as a residence is disconnected from or not serviced by water and sewer utilities as required by Sections 90.03 and 95.05 of the Code of Ordinances, New London, Iowa.

(Ord. 35 – Jan. 17 Supp.)

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF NEW LONDON, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without

[†] **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.

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])

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.03 Foundation Requirements

146.02 Conversion to Real Property

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 147

FIRE ZONE

147.01 Fire Zone Established
147.02 Plans Submitted
147.03 Buildings Prohibited
147.04 Construction Standards

147.05 Reconstruction Prohibited
147.06 Special Permit
147.07 Removal of Buildings
147.08 Storage of Materials Restricted

147.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

Beginning at the northwest corner of Main Street and Elm Street, thence north on Elm Street to the south line of Washington Street, thence west to the east line of Maple Street, thence south to the south line of Main Street, thence west to the east line of Pine Street, thence south to the north line of Wilson Street, thence east to the west line of Oak Street, thence north to the south line of Main Street, thence west to the northeast corner of Main Street and Elm Street, thence north to the place of beginning.

147.02 PLANS SUBMITTED. It is unlawful to build, enlarge, or alter any structure, building, or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

147.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

147.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the *Uniform Building Code*.

147.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

147.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

147.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to

be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

147.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No trees shall be planted on any property belonging to the City except by permission of the City Council. No trees shall be planted in any street, right-of-way, parking areas or in any City or utility easements. This includes the area between the sidewalk and the curb. These areas shall be kept free for current or future City and/or utility usage. Trees should be planted inside the property owner’s property lines.

(Ord. 19 – Jan. 13 Supp.)

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by

certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 165

ZONING – GENERAL PROVISIONS AND DEFINITIONS

165.01 Short Title

165.02 Purpose

165.03 Definitions

165.04 Authority

165.05 Interpretation and Conflict

165.06 Enforcement

165.07 Schedule of Fees

165.08 Enactment

165.09 Establishment of Zoning Districts

165.10 Adoption of Official Zoning Map

165.11 Jurisdiction

165.01 SHORT TITLE. The regulations contained in Chapters 165 through 170 of this Code of Ordinances shall be officially known, cited, and referred to as the “Zoning Ordinance of New London, Iowa,” and are hereinafter referred to as “these Zoning Regulations” or “these regulations.”

165.02 PURPOSE. These regulations are enacted for the purpose of promoting the health, safety, morals, and general welfare of the City.

165.03 DEFINITIONS. As used in these Zoning Regulations, the word “building” includes the word “structure,” and for the purpose of these regulations the following terms and words are defined.

1. “Abut” means to physically touch or border upon, or to share a common property line but not overlap.
2. “Accessory use or building” means a use or building subordinate to the principal use of a lot and serving a purpose customarily incidental to the use of the principal building.
3. “Adjacent” – See “abut.”
4. “Adult entertainment use” means an establishment consisting of, including, or having the characteristics of any or all of the following:
 - A. Adult Bookstore, Newsstand, Video Store, or Combination. An establishment having, as a substantial or significant portion of its stock-in-trade, software, books, magazines, publications, tapes, films, and/or videos that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
 - B. Adult Cabaret. (1) An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas; or (2) a cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.
 - C. Adult Mini Motion Picture Theatre. An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas; also known as “peep shows.”

- D. Adult Motion Picture Theatre. An enclosed building with a capacity for 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
- E. Sex Shop. (1) Any establishment offering for sale or rent items from any two of the following categories: sexually oriented books and videos, lingerie, leather goods marketed or presented in a context to suggest their use for “bondage” or other sexual activities; (2) any establishment offering for sale sexually oriented toys, devices, and/or novelties; (3) any establishment advertising or holding itself out in any forum as “XXX,” “adult,” “sex,” or otherwise as a sexually oriented business.
5. “Alley” means a public way for the use of vehicles which affords only a secondary means of access to abutting property.
6. “Amusement place” means a completely enclosed building arranged, intended, or designed for recreation or amusement use, which is not noxious or offensive due to the emission of odors, gas, smoke, or noise and which is not a menace to public health and safety and which will not substantially or permanently injure the appropriate use of neighboring property.
7. “Apartment” means a room or suite of rooms in a multi-family dwelling intended or designed for use as a residence by a single family.
8. “Basement” means a story having part but not more than one-half of its height below grade. A basement is counted as a story for the purpose of height regulations.
9. “Billboard” means a sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.
10. “Board” means the City’s Zoning Board of Adjustment.
11. “Boarding,” “bed and breakfast,” or “lodging house” means a building other than a hotel where, for compensation and by arrangement, lodging or lodging and meals are provided for three or more persons.
12. “Building” means any structure having a roof supported by walls or by columns intended for enclosure, shelter, or housing of any person, animals, process, equipment, goods, or materials of any kind.
13. “Building, height of” means the vertical distance from the average natural grade at the building line, to the highest point of the coping of a flat roof, or to deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.
14. “Cellar” means a story having more than one-half its height below grade. A cellar is not counted as a story for the purpose of height regulations.
15. “Commission” refers to the City’s Planning and Zoning Commission, also known as the Zoning Commission.
16. “Country club” means land area containing golf courses and/or recreational facilities with accessory structures as necessary to facilitate the specific operation and maintenance of said courses and facilities.

17. “District” means a section or sections of the incorporated area or any portion thereof of the City for which the regulations governing the use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

18. “Dwelling” means a building or portion thereof designed or used for residential purposes.

19. “Dwelling, one-family” means a dwelling arranged, intended, or designed for occupancy by one family.

20. “Dwelling, two-family” means a dwelling arranged, intended, or designed for occupancy by two families.

21. “Dwelling, multiple” means a dwelling arranged, intended, or designed for occupancy by more than two families, living independently of each other.

22. “Family” means a person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

- A. Any number of people related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship;
- B. Two unrelated people;
- C. Two unrelated people and any children related to either of them;
- D. Not more than eight people who are:
 - (1) Residents of a “family home” as defined in the *Code of Iowa* and these Zoning Regulations; or
 - (2) “Handicapped” as defined in the Fair Housing Act, 42 U.S.C. §3602(h) and these Zoning Regulations. This definition does not include those persons currently illegally using or addicted to a “controlled substance” as defined in the Controlled Substances Act, 21 U.S.C. §802(6);
- E. Three or more people who are granted a conditional use permit as a “functional family.”
- F. Exceptions. “Family” does not include:
 - (1) Any society, club, fraternity, sorority, association, lodge combine, federation, coterie, or like organization;
 - (2) Any group of individuals whose association is temporary or seasonal in nature; or
 - (3) Any group of individuals who are in a group living arrangement as a result of criminal offenses.

23. “Family home” means a community-based residential home which is licensed as a residential care facility or as a child foster care facility to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home.

24. “Farm” means a parcel of land used for growing or raising agricultural products, including related structures thereon. This definition does not include the practice of livestock operations involving open feedlots or confined animal feeding operations.
25. “Frontage” means the length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.
26. “Garage, private” means an accessory building or portion of a building in which one or more vehicles are housed, but in which no service or industry connected with motor vehicles is carried on, other than the leasing of space for the housing of vehicles as permitted herein.
27. “Garage, public” means a building or portion thereof, designed, intended, or used for the storage, sale, hiring, care, or repair of motor vehicles, and which is operated for commercial purposes.
28. “Gasoline service station” means any building or portion thereof used for the dispensing, sale, or offering for sale at retail, automotive fuels, oil, and similar supplies, but not for the purpose of making repairs. When the dispensing, sale, or offering for sale at retail is incidental to the conduct of a public garage, the premises shall be classified as a public garage.
29. “Grade” means the average level of the finished surface of the ground adjacent to the exterior walls of the building.
30. “Height” – See “building, height of.”
31. “Home occupation” means any occupation or activity carried on by a member of the immediate family, residing on the premises, provided that not more than one person not a member of the family there residing is regularly employed in addition to the proprietor, and provided further that the activity is secondary to the primary use of a parcel for residential purposes whether it takes place in the home or in an accessory structure that is subordinate to the main structure, and provided further that the home occupation does not occupy more than 25 percent of the property area and does not cause a substantial change to the residential character of the area other than a sign not to exceed nine square feet in area carrying only the name and occupation of any occupant of the premises and meeting the height and location requirements for signage, and provided further that the building or premises occupied shall not thus be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, the emission of odor, gas, dust, smoke, or noise or in any other way.
32. “Hotel” means a building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, or an apartment which are herein separately defined.
33. “Institution” means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.
34. “Junk yard” – See “salvage yard.”
35. “Kennel” means an establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

36. “Land-leased community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. The term land-leased community shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house its own labor or students.

37. “Lot” means a parcel of land occupied, or intended for occupancy, by a building and its accessory buildings, together with the required yard and minimum area requirements for a lot within the zone which such lot is located and having its principal frontage on a public street or public way.

38. “Lot area” means total horizontal area within lot lines.

39. “Lot corner” means a lot abutting upon two or more roads at their intersection.

40. “Lot, depth of” means the mean horizontal distance between the front and rear lot lines.

41. “Lot line” means property line bounding a lot.

42. “Lot, through” means a lot having frontage on two non-intersecting roads, as distinguished from a corner lot.

43. “Lot of record” means a lot or parcel of land whose existence, location, and dimensions have been legally recorded by deed or plat prior to the adoption of these Zoning Regulations.

44. “Main building” means the building or structure that contains the principal use.

45. “Manufactured home” means a factory-built, single-family structure which is manufactured or constructed under the authority of 42 U.S.C. §5403, National Manufactured Home Construction and Safety Standards Act of 1974, and is to be used exclusively as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site dwelling. For the purpose of these regulations, a manufactured home shall be built after June 15, 1976, and bear a seal certifying that it is in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974.

46. “Manufactured housing park” – See “land-leased community.”

47. “Motel” or “tourist home” means a permanent building or group of buildings designed or arranged primarily for temporary occupancy, and laid out so as to provide space for parking vehicles used by the traveling public. Such building or group of buildings may include quarters for the use of operating personnel.

48. “Mobile home” means any occupied vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways, and duly licensed as such, and includes self-propelled or non-self-propelled vehicles, so designed, constructed, reconstructed or added to by means of an enclosed additional

room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, having no permanent foundation and supported by wheels, jacks, or similar supports.

49. “Modular home” means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa *State Building Code* for modular factory-built structures, and which must display the seal issued by the State Building Code Commissioner.

50. “Nonconforming lot” means a use or activity which lawfully existed prior to the adoption, revision, or amendment of these Zoning Regulations, but which fails by reason of such adoption, revision, or amendment to conform to the use district in which it is located.

51. “Nonconforming structure” means any building or structure that does not meet the limitations on building size and location on a lot, for the district in which such building is located, for the use to which such building is being put.

52. “Nonconforming use” means lawful use of a building or land at the time of the passage of these Zoning Regulations or amendment thereto, which does not conform to the provisions of such regulations or the district in which it is located.

53. “Nursing home” means a home for aged, chronically ill, or incurable persons, in which three or more persons not of the immediate family are received, kept, and provided with food or shelter and care, for compensation.

54. “Ordinance” means any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

55. “Parking lot” means a parcel of land devoted to unenclosed parking spaces.

56. “Parking space” means a surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.

57. “Planning and Zoning Commission” – See “Commission.”

58. “Principal use” means the main use of land or structures, as distinguished from an accessory use.

59. “Road” means all property, other than an alley, dedicated or intended for public or private road, street, highway, freeway, or roadway purposes, or to the public easement thereof.

60. “Road line” – See “frontage.”

61. “Roadside stand” means a temporary structure, unenclosed and so designed and constructed that the structure is easily portable or can be readily moved, and which is adjacent to a road and used for sale of farm products produced or grown on the premises.

62. “Salvage yard” means an area of any lot or parcel of land which is used for the storage, salvage, abandonment, or keeping of junk, including scrap metals or scrap materials, or for the abandonment, or dismantling of machinery, motor vehicles, or other vehicles, or parts thereof.

63. “Shooting range” means an area designated for archery or the discharge of firearms under controlled circumstances. Shooting ranges must provide a professional engineer’s statement that it is impossible for projectiles to leave the controlled discharge area on the premises. Noise from shooting ranges shall not exceed 55 dBA, measured at the edge of the property line on which property the range is located.

64. “Sign” means any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. The definition does not include national or state flags or official announcements or signs of government.

65. “Story” means that portion of a building, other than a cellar but including a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

66. “Structure” means anything constructed or erected for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

67. “Structural alteration” means any change in the supporting members of a structure such as walls, partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

68. “Variance” means a modification or variation of the provisions of these Zoning Regulations as applied to a specific piece of property, as distinct from rezoning.

69. “Yard” means an open space on the same lot with a main building unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided in these regulations.

70. “Yard, front” means a yard extending across the full width of the lot, lying between the road line of the lot and the nearest line of the main building.

71. “Yard, rear” means a yard extending across the full width of the lot, lying between the rear line of the lot and the nearest line of the main building.

72. “Yard, side” means a yard between a side lot line and the nearest line of the main building, extending from the front yard to the rear yard.

73. “Zoning Administrator” means the individual appointed by the Council to administer and enforce the provisions of these Zoning Regulations.

74. “Zoning permit” means a permit issued by the Zoning Administrator for the erection, reconstruction, replacement, or alteration of a building or structure or the use of land.

165.04 AUTHORITY. These regulations allow the City, as empowered by Chapter 414 of the *Code of Iowa*, to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

165.05 INTERPRETATION AND CONFLICT. Whenever the provisions of these regulations require a greater width or size of yards, courts or other open spaces, or a lower

height of building or less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under these zoning chapters shall govern. If any other statute or local ordinance or regulation requires a greater width or size of yards, courts or other open spaces, or a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by these regulations, the other statute or local ordinance or regulation shall govern. If a regulation proposed or made under these regulations relates to any structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of any river or stream, prior approval of the Department of Natural Resources is required to establish, amend, supplement, change, or modify the regulation or to grant any variation or exception from the regulation.

165.06 ENFORCEMENT. The Zoning Administrator shall be designated by the Council, and it shall be the duty of such Zoning Administrator to enforce these regulations. Appeals from the decision of the Zoning Administrator may be made to the Board of Adjustment as provided in Chapter 167. In case any building or structure is erected, constructed, reconstructed, replaced, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these regulations, the proper authorities of the City, in addition to other remedies, may institute any proper action or proceed in the name of the City to prevent such unlawful erection, construction, reconstruction, replacement, alteration or repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent any illegal act, conduct, business, or use in or about the premises.

165.07 SCHEDULE OF FEES. Fees shall be required for all zoning permits and zoning requests and are as follows:

1. Residential. One-Family Residential District “R-1”, Two-Family Residential District “R-2” and Multi-Family Residential District “R-3”.
 - A. Uncovered Decks/Porches, Ramps, Fences and Accessory Buildings Under 240 sq. ft. \$5.00
 - B. Covered Decks/Porches, Accessory Buildings Larger than 240 sq. ft., Attached/Detached Garages and Additions \$10.00
 - C. Single Family Dwelling \$25.00
 - D. Duplex/Triplex \$35.00
 - E. Quad or up, multi-Apartment \$50.00
- 1.
2. Commercial. Neighborhood Commercial District “C-1” and General Commercial District “C-2”.
 - A. Fences, Signs, Additions, Accessory Buildings \$15.00
 - B. Any Building for the Purpose of Housing a Business \$50.00
3. Industrial. Light Industrial “I-1”.
 - A. Fences, Signs, Additions, Accessory Buildings \$25.00
 - B. Any Building for the Purpose of Housing a Business \$75.00

4. Industrial. Heavy Industrial “1-2”.
 - A. Fences, Signs, Additions, Accessory Buildings \$25.00
 - B. Any Building for the Purpose of Housing a Business \$100.00

The fee schedule above designates charges that bear a reasonable relationship to the cost of administering the process described herein. Under no circumstances shall a fee be refunded to the applicant once the application for the permit or other zoning request has been made. When the primary use of a commercial or industrial zoned property is for residential purposes the fee schedule for residential districts shall apply to all new zoning permits.

(Ord. 33 – Jan. 17 Supp.)

165.08 ENACTMENT. These regulations shall become effective upon publication, and may be amended from time to time to further their purposes by the Council after recommendations by the Commission.

165.09 ESTABLISHMENT OF ZONING DISTRICTS. These regulations divide the City into districts of such number, shape, and area as are deemed best suited to carry out the purposes of these regulations. Within such districts, the City regulates and restricts the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations and restrictions are uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

165.10 ADOPTION OF OFFICIAL ZONING MAP. These regulations actually consist of two parts: the written ordinance itself and the official zoning map. The zoning map identifies the physical boundaries of the zoning districts defined below with respect to the incorporated area of the City.

165.11 JURISDICTION. These regulations apply to all land within the incorporated boundary of New London, Iowa.

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CHAPTER 166

ZONING – OPERATIONAL PROCEDURE

166.01 Duties of the Zoning Administrator
166.02 Obtaining Zoning Permits

166.03 Legal Nonconforming Uses
166.04 Amendments

166.01 DUTIES OF THE ZONING ADMINISTRATOR. It is the duty of the Zoning Administrator, who is appointed by the Council, to enforce the provisions of these regulations and to bring to the attention of the City Attorney any violations or lack of compliance. The Administrator shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations. Appropriate actions and proceedings may be taken in 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 and to prevent illegal occupancy and/or use of a building structure or premises.

166.02 OBTAINING ZONING PERMITS.

1. Zoning Permits Required. Zoning permits shall be required for the following;
 - A. Any structure hereafter erected, replaced, reconstructed or enlarged;
 - B. Any change in use;
 - C. Any nonconforming use in existence at the time of passage of these regulations. The owner of such nonconforming use shall make application for the permit within 12 months after the effective date of the Zoning Ordinance, accompanied by affidavits of proof that such nonconforming use was established prior to enactment of such ordinance.
2. Zoning Permit Application. Each application for a zoning permit shall be on approved forms and shall be accompanied by a legible site plan, drawn to scale, showing the actual dimensions of the lot or tract to be built upon or use, the size, shape and location of the structure to be erected, and such other information as may be necessary to provide for the enforcement of these zoning regulations and other City ordinances.
3. Zoning Permits Approved by the Zoning Administrator. The following zoning permits require approval by the appropriate department heads and the Zoning Administrator. The permit shall be effective after all signatures have been acquired and shall be good for ninety (90) days after the later most date. Construction on the project must start within the ninety (90) day period.
 - A. Uncovered decks/porches.
 - B. Ramps.
 - C. Accessory buildings under 240 square feet.
 - D. Fences
 - E. Free standing carports.
4. Zoning Permits Approved by the Council the following permits require approval by the appropriate department heads, Zoning Administrator and City

Council. The permit shall be effective after all signatures have been acquired and the City Council has approved the permit at a regular meeting and shall be good for ninety (90) days after the Council approval date. Construction on the project must start within the ninety (90) day period.

- A. Houses.
- B. Attached garages/carports.
- C. Additions
- D. Accessory buildings 240 square feet and larger.
- E. Commercial buildings.
- F. Non-conforming uses.
- G. Any other structure not mentioned in the Zoning Administrator approval listing.

(Ord. 33 – Jan. 17 Supp.)

166.03 LEGAL NONCONFORMING USES. The following provisions apply to the nonconforming use of buildings and land within the City. The following provisions also apply to structures and buildings that are nonconforming due to the bulk requirements of the zoning district in which said buildings or structures are located.

1. **Nonconforming Use May Be Continued.** The lawful use of a building existing on the effective date of these regulations which does not conform to the provisions hereof may be continued, but if such nonconforming use is discontinued, any future use of such premises shall be in conformity with the provision of these regulations.
2. **Nonconforming Use May Be Extended.** The lawful use of a building existing on the effective date of the Zoning Ordinance may be extended throughout the building, provided such building was so arranged or designed for such nonconforming use on such effective date.
3. **Nonconforming Structure Reconstructed.** No structure which has been damaged by fire, explosion, natural disaster, an act of God, or a public enemy, to the extent of more than 65 percent of its value, shall be restored except in conformity with these regulations.
4. **Nonconforming Uses Substituted.** The substitution of one nonconforming use for another will be permitted when such substituted use is of the same or more restrictive type of use and will not increase congestion in the street or endanger the health, safety, morals, or general welfare of the district in which it is located. (There shall be no increase in the building or lot area to accommodate such substituted use.)
5. **Nonconforming Lot.** If a lot of record has less area or width than is required to meet the requirements of the district within which it lies, this lot may be used for any of the uses permissible within the district; however, all yard requirements must be adhered to.
6. **Nonconforming Building or Structure May Be Extended.** Any building or structure considered nonconforming due to the district setback requirements in which it is located may be extended or added on to, provided said extension or addition itself is in conformity with the district requirements for a new structure for which the building or structure is located.

166.04 AMENDMENTS. The Council may, from time to time, on its own motion, or on petitions, after report by the Planning and Zoning Commission, and after public hearing, amend, supplement, modify, repeal, or change by ordinance the regulations and districts herein or subsequently established. Notice of time and place of the hearing shall be published not less than 7 or more than 20 days prior to the hearing. In case the Commission does not recommend approval of a change, or in case of a written protest against a change or repeal which is filed with the Clerk and signed by the owners of 20 percent or more of the area of the lots included in the proposed change or repeal, or by the owners of 20 percent or more of the property which is located within 200 feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. The provisions of Section 414.4 of the *Code of Iowa* relative to public hearings and official notice apply equally to all changes or amendments.

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CHAPTER 167

ZONING – BOARD OF ADJUSTMENT

167.01 Board Appointed
167.02 Duties

167.03 Powers
167.04 Appeals

167.01 BOARD APPOINTED. The Council shall provide for the appointment of a Board of Adjustment consisting of five members. Members of the Board shall be appointed for staggered five-year terms. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Members of the Board of Adjustment may not also be members of the Planning and Zoning Commission or the City Council.

167.02 DUTIES. The Board shall not carry out its business without having three members present. The Board shall utilize rules of procedure for conducting business. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson or, in the Chairperson's absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

167.03 POWERS. The Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of these zoning regulations in harmony with its general purpose and intent. To this end, the Board has the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of these regulations.
2. To hear and decide special exceptions to the terms of these zoning regulations as detailed below.
3. To authorize, upon appeal, variance from specific terms of these regulations, provided such variance will not be contrary to the public interest, that the spirit of the zoning regulations shall be observed, and that substantial justice is done. Granting of a variance shall require a finding by the Board that identifies a special condition in which a literal enforcement of these regulations will result in unnecessary hardship.

In exercising the above-mentioned powers, such Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any

special exception or to effect any other variation in these regulations. The Board is not permitted to make variances with regard to land uses.

167.04 APPEALS. Appeals to the Board of Adjustment may be taken by any person aggrieved by any decision of the Zoning Administrator. Such appeal shall be taken within thirty days of the Administrator's official determination by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board of Adjustment after the notice of appeal has been filed that by reason of facts stated in the certificate a stay would in the Administrator's opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the Administrator and on due cause shown.

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CHAPTER 168

ZONING DISTRICTS

168.01 Summary	168.09 Two-Family Residential District
168.02 Official Zoning Map	168.10 Multi-Family Residential District
168.03 District Boundaries	168.11 Neighborhood Commercial District
168.04 Annexation	168.12 General Commercial District
168.05 Road and Public Way Vacation	168.13 Light Industrial District
168.06 Requirements Applicable to All Districts	168.14 Heavy Industrial District
168.07 Interim Development District	168.15 Public Open Space District
168.08 One-Family Residential District	

168.01 SUMMARY. For the purpose of these zoning regulations, the incorporated area of the City is divided into the following zoning districts. The use, height, and area regulations are uniform in each class of district, and the districts shall be known as:

- “I-D” Interim Development District
- “R-1” One-Family Residential District
- “R-2” Two-Family Residential District
- “R-3” Multi-Family Residential District
- “C-1” Neighborhood Commercial District
- “C-2” General Commercial District
- “I-1” Light Industrial District
- “I-2” Heavy Industrial District
- “P” Public Open Space District

168.02 OFFICIAL ZONING MAP. The boundaries of the districts named in Section 168.01 are indicated and established as shown upon a map designated as the official zoning map of New London, Iowa, which will with all its notations, designations, references and other matters shown thereon, shall be as much a part of these zoning regulations as if fully described and set forth herein, and which map is properly attested and on file in the City office.[†]

168.03 DISTRICT BOUNDARIES. The boundaries of the various districts established by these regulations are road lines, alley lines, property lines, lot lines, section lines, quarter lines, quarter-quarter lines, center of rivers, or other lines shown on the official zone map. Where boundaries are approximately indicated as property or lot lines, the true location of such lines shall be taken as the boundary lines. Where the distance to any boundary line, from a road line, property line or lot line, is indicated by the official zoning map, such measurements shall control.

168.04 ANNEXATION. All territory surrounding the corporate limits of the City, which, through annexation, may hereafter become part of the incorporated area of the City, shall be classed as “I-D” Interim Development District until such classification shall have been changed by amendment to these regulations, as provided by law.

[†] (See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)

168.05 ROAD AND PUBLIC WAY VACATION. Whenever any road or other public way is vacated by the official action of the Council, the resultant tract shall be classed as “I-D” Interim Development District until such classification shall have been changed by amendment to these regulations, as provided by law.

168.06 REQUIREMENTS APPLICABLE TO ALL DISTRICTS. Except as hereinafter provided:

1. No person shall use any land, building, or structure for any use other than those permitted in the district in which such land, building or structure is located.
2. No building or structure shall be erected, converted, enlarged, replaced, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located.
3. No building shall be erected, converted, enlarged, replaced, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.
4. No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be considered as providing a yard or open space for any other building, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located.
5. Every building hereafter erected, replaced, or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in these regulations.
6. No building in the rear of any main building on the same interior lot shall be used for residence purposes.
7. A written permit shall be obtained from the Zoning Administrator when required as provided in Chapter 166 of these regulations.
8. Whenever in these zoning regulations the terms “density requirements” or “area requirements” are used and wherever front, side, or rear area requirements are given, the same shall be exclusive of all publicly dedicated roadway easements.
9. No buildings (including manufactured buildings and homes) used primarily as a residential dwelling (other than when located within a mobile home park) shall be erected or installed with dimensions of less than 22 feet in length by 22 feet in width.
10. Dwellings and additions to dwellings (excluding manufactured and mobile homes) shall be built with like materials as surrounding dwellings. Dwellings shall have a minimum of two (2) inch by four (4) inch walls studded sixteen (16) inches on center and a permanent frost free foundation with a minimum of depth of forty (40) inches. Under no circumstances shall a metal pole building be used as a dwelling. Metal pole buildings shall be allowed as accessory buildings.

(Ord. 33 – Jan. 17 Supp.)

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168.07 INTERIM DEVELOPMENT DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “I-D” Interim Development Districts. The I-D District is intended to accommodate newly annexed areas that are predominantly agricultural in character and undeveloped, yet in a transitional phase toward urban use.

1. Permitted Uses. A structure or premises shall be used only for the following purposes:

- A. Farms and farm related activities;
- B. Single-family dwellings;
- C. Places of worship;
- D. Public schools or private educational institutions having a curriculum comparable to that given in public schools;
- E. Public parks and playgrounds;
- F. Stables;
- G. Public and private forests and wildlife reservations or similar conservation projects;
- H. Golf courses or practice driving ranges operated for commercial purposes, except miniature golf courses;
- I. Roadside stands;
- J. Family homes;
- K. Summer camps and recreational facilities operated by public or semi-public organizations;
- L. Accessory buildings and accessory uses customarily incident to any of the above uses, but not involving the conduct of a business.

2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:

- A. Home occupations;
- B. Cemeteries;
- C. Country clubs;
- D. Community buildings;
- E. Grain bins and buildings for the seasonal or temporary storage of grain;
- F. Signs;
- G. Temporary mixing plants in association with road construction;
- H. Private gun clubs, skeet shooting ranges, and hunting preserves;
- I. Automobile race tracks and/or drag strips, all-terrain and motorized vehicle tracks, and snowmobile tracks;
- J. Anhydrous ammonia;

- K. Electrical and natural gas transmission, regulating and storage facilities;
 - L. Grain drying;
 - M. Grain elevators;
 - N. Grain mixing, blending, and feed manufacturing plants;
 - O. Grain storage;
 - P. Telecommunications towers.
3. Area Regulations.
- A. Front Yard. Each main building shall have a front yard depth of not less than 50 feet. On corner lots, there shall be a front yard depth of not less than 50 feet, and a side yard on the intersecting street of lot less than 50 feet.
 - B. Side Yard. There shall be a side yard of not less than 15 feet on each side of the main building.
 - C. Rear Yard. There shall be a rear yard of not less than 40 feet to the rear of the main building.
 - D. Intensity of Use. Every lot or tract of land upon which a single-family dwelling is erected shall have an area of not less than one acre, and a minimum average width of not less than 150 feet.
4. Height Regulations. No structure shall be erected adjacent to a residential district without providing a setback from the residential district boundary equal to the height above 30 feet plus the yard requirement for the yard adjacent to the residential district.

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168.08 ONE-FAMILY RESIDENTIAL DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “R-1” One-Family Residential Districts.

1. Permitted Uses. A structure or premises shall be used only for the following purposes:
 - A. Single-family dwellings;
 - B. Places of worship;
 - C. Public schools or private educational institutions having a curriculum comparable to that given in public schools;
 - D. Public parks and playgrounds;
 - E. Public and private forests and wildlife reservations or similar conservation projects;
 - F. Golf courses or practice driving ranges operated for commercial purposes, except miniature golf courses;
 - G. Family homes;
 - H. Accessory buildings and accessory uses customarily incident to any of the above uses, but not involving the conduct of a business.
2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:
 - A. Hospitals;
 - B. Community buildings;
 - C. Home occupations;
 - D. Cemeteries;
 - E. Country clubs;
 - F. Signs;
 - G. Temporary mixing plants in association with road construction;
 - H. Two-family dwellings;
 - I. Schools and semi-public buildings;
 - J. Buildings erected or used by any department of the Federal, State, County, or municipal governments;
 - K. Functional families or those groups of persons not meeting the definition of “family” yet living in a single-family dwelling;
 - L. Summer camps and recreational facilities operated by public or semi-public organizations.
3. Area Regulations.
 - A. Front Yard. Each main building shall have a front yard depth of not less than 15 feet. On corner lots, there shall be a front yard of not less than 15 feet, and a side yard on the intersecting street of not less than 15 feet.

- B. Side Yard. There shall be a side yard of not less than 8 feet on each side of the main building.
 - C. Rear Yard. There shall be a rear yard of not less than 25 feet to the rear of the main building.
 - D. Intensity of Use. Every lot or tract of land upon which a dwelling is erected shall have an area of not less than 7,000 square feet for a single-family dwelling and an area of not less than 20,000 square feet for a two-family dwelling, and a minimum average width of not less than 50 feet.
4. Height Regulations. No building shall exceed two and one-half stories or 30 feet in height, except as hereinafter provided.

[The next page is 781]

168.09 TWO-FAMILY RESIDENTIAL DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “R-2” Two-Family Residential Districts.

1. Permitted Uses. A structure or premises shall be used only for the following purposes:
 - A. Single-family and two-family dwellings;
 - B. Places of worship;
 - C. Public schools or private educational institutions having a curriculum comparable to that given in public schools;
 - D. Public parks and playgrounds;
 - E. Golf courses or practice driving ranges operated for commercial purposes, except miniature golf courses;
 - F. Family homes;
 - G. Accessory buildings and accessory uses customarily incident to any of the above uses, but not involving the conduct of a business.
2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:
 - A. Hospitals;
 - B. Community buildings;
 - C. Home occupations;
 - D. Cemeteries;
 - E. Country clubs;
 - F. Signs;
 - G. Multi-family dwellings;
 - H. Schools and semi-public buildings;
 - I. Buildings erected or used by any department of the Federal, State, County, or municipal governments;
 - J. Functional families or those groups of persons not meeting the definition of “family” yet living in a single-family dwelling;
 - K. Summer camps and recreational facilities operated by public or semi-public organizations.
3. Area Regulations.
 - A. Front Yard. Each main building shall have a front yard depth of not less than 15 feet. On corner lots, there shall be a front yard of not less than 15 feet, and a side yard on the intersecting street of not less than 15 feet.
 - B. Side Yard. There shall be a side yard of not less than 8 feet on each side of the main building.

C. Rear Yard. There shall be a rear yard of not less than 20 feet to the rear of the main building.

D. Intensity of Use. Every lot or tract of land upon which a dwelling is erected shall have an area of not less than 7,000 square feet for a single-family dwelling, and an additional 1,000 square feet for each dwelling unit over the first, and a minimum average width of not less than 50 feet.

4. Height Regulations. No building shall exceed two and one-half stories or 30 feet in height, except as hereinafter provided.

[The next page is 787]

168.10 MULTI-FAMILY RESIDENTIAL DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “R-3” Multi-Family Residential Districts.

1. Permitted Uses. A structure or premises shall be used only for the following purposes:
 - A. Single-family, two-family, and multi-family dwellings;
 - B. Places of worship;
 - C. Public schools or private educational institutions having a curriculum comparable to that given in public schools;
 - D. Public parks and playgrounds;
 - E. Golf courses or practice driving ranges operated for commercial purposes, except miniature golf courses;
 - F. Family homes;
 - G. Accessory buildings and accessory uses customarily incident to any of the above uses, but not involving the conduct of a business.
2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:
 - A. Hospitals;
 - B. Community buildings;
 - C. Home occupations;
 - D. Country clubs;
 - E. Signs;
 - F. Land-leased communities;
 - G. Schools and semi-public buildings;
 - H. Buildings erected or used by any department of the Federal, State, County, or municipal governments;
 - I. Functional families or those groups of persons not meeting the definition of “family” yet living in a single-family dwelling;
 - J. Summer camps and recreational facilities operated by public or semi-public organizations.
3. Area Regulations.
 - A. Front Yard. Each main building shall have a front yard depth of not less than 10 feet. On corner lots, there shall be a front yard of not less than 10 feet, and a side yard on the intersecting street of not less than 10 feet.
 - B. Side Yard. There shall be a side yard of not less than 8 feet on each side of the main building.
 - C. Rear Yard. There shall be a rear yard of not less than 15 feet to the rear of the main building.

D. Intensity of Use. Every lot or tract of land upon which a dwelling is erected shall have an area of not less than 7,000 square feet for a single-family dwelling, and an additional 1,000 square feet for each dwelling unit over the first, and a minimum average width of not less than 50 feet.

4. Height Regulations. No building shall exceed three stories or 40 feet in height, except as hereinafter provided.

[The next page is 793]

168.11 NEIGHBORHOOD COMMERCIAL DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “C-1” Neighborhood Commercial Districts.

1. A structure or premises shall be used only for the following purposes:
 - A. Any use permitted in the “R-3” Multi-Family Residential District;
 - B. Apothecaries;
 - C. Bakeries and meat shops;
 - D. Business and professional offices;
 - E. Barber shops, beauty parlors, and similar personal service shops;
 - F. Bicycle sales and repair shops, or other non-motorized vehicle sales and repair;
 - G. Boarding and lodging houses;
 - H. Catering and delicatessen shops;
 - I. Clubs for fitness, martial arts, and similar uses; including dance studios;
 - J. Community buildings;
 - K. Country clubs;
 - L. Dressmaking, millinery, and tailoring shops;
 - M. Hospitals;
 - N. Hotels;
 - O. Laundromats;
 - P. Locksmiths;
 - Q. Medical, chiropractic, optometry, and dental clinics;
 - R. Museums or art galleries;
 - S. Nursing homes;
 - T. Offices;
 - U. Photographic studios;
 - V. Restaurants and cafes, but not including drive-through;
 - W. Retail stores;
 - X. Signs advertising a commercial or industrial activity occurring on the premises for which said sign is located;
 - Y. Storage for commercial purposes provided all goods are stored entirely within structures;
 - Z. Any light commercial use which is carried on entirely within buildings, which is not noxious or offensive due to the emission of odors, gas, smoke, or noise; which is not a menace to public health and safety; and which will not substantially or permanently injure the appropriate use of neighboring

property. Such use shall maintain a similar character and intensity of use with those uses mentioned above in this section. Commercial uses which involve drive-through service shall not be permitted in this district.

AA. Accessory buildings incidental to any of the above uses.

2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:

- A. Mixed uses;
- B. Signs;
- C. Home occupations;
- D. Schools and semi-public buildings;
- E. Telecommunications or microwave communications towers and/or wireless transmission towers as well as support buildings and structures;
- F. Movie houses and theatres, except adult entertainment uses;
- G. Taverns;
- H. Public sewer or water treatment facilities.

3. Area Regulations. Area and yard requirements for residential units are the same as those for the "R-3" Multi-Family Residential Districts. For all other uses the yard requirements are as follows:

A. Front Yard. No requirements, provided that the Zoning Administrator is given a professional survey from which to determine location of the main building.

B. Side Yard. A side yard is not required except for corner lots as described above and except on the side of a lot abutting an "I-D", "R-1", or "R-2" District, in which case there shall be a side yard of not less than 10 feet; a side yard setback shall also be required if said lot abuts a commercially zoned lot that is used as a residence.

C. Rear Yard. A rear yard is not required, except on the rear of a lot abutting an "I-D", "R-1", or "R-2" District, in which case there shall be a rear yard of not less than 20 feet; a rear yard setback shall also be required if the rear lot line of said lot abuts a commercially zoned lot that is used as a residence.

D. Intensity of Use. No requirement, except for residential uses which shall conform to the same requirements of the "R-3" District.

4. Height Regulations. No building shall exceed three stories or 40 feet in height, except as hereinafter provided.

[The next page is 801]

168.12 GENERAL COMMERCIAL DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “C-2” General Commercial Districts.

1. Permitted Uses. A structure or premises shall be used only for the following purposes:

- A. Any use permitted in the “R-3” Multi-Family Residential District;
- B. Advertising signs and billboards;
- C. Amusement places, and drive-in theatres;
- D. Bakeries;
- E. Banks;
- F. Barber shops, beauty parlors, tanning beds, and licensed massage and similar personal service shops;
- G. Bicycle sales and repair shops;
- H. Boarding and lodging houses;
- I. Catering and delicatessen shops;
- J. Dressmaking, millinery, and tailoring shops;
- K. Drive-in eating establishments;
- L. Dry cleaning establishments;
- M. Electric, radio, and TV sales and repair shops;
- N. Vehicle repair shops;
- O. Gasoline service stations;
- P. Implement repair and/or sales;
- Q. Kennels;
- R. Laundromats;
- S. Locksmiths and gunsmiths;
- T. Medical and dental clinics;
- U. Motels and hotels;
- V. Nursing homes;
- W. Offices;
- X. Parking lots;
- Y. Photographic studios;
- Z. Restaurants;
- AA. Retail stores;
- BB. Shoe repair shops;
- CC. Storage yards of equipment and materials that do not constitute a hazard to public health or safety;

- DD. Licensed tattoo shops;
 - EE. Taverns;
 - FF. Any commercial use which is carried on entirely within buildings, which is not noxious or offensive due to the emission of odors, gas, smoke, or noise; which is not a menace to public health and safety, and which will not substantially or permanently injure the appropriate use of neighboring property;
 - GG. Accessory buildings and uses incidental to any of the above uses;
 - HH. Adult entertainment uses, provided they meet the requirements of Section 170.02 of these zoning regulations.
2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:
- A. Camping grounds;
 - B. Mixed uses;
 - C. Home occupations;
 - D. Airports;
 - E. Shooting ranges;
 - F. Telecommunications or microwave communications towers and/or wireless transmission towers as well as support buildings and structures.
3. Area Regulations. Area and yard requirements for residential units are the same as those for the “R-3” Multi-Family Residential Districts. For all other uses the yard requirements are as follows:
- A. Front Yard. Each main building shall have a front yard depth of not less than 20 feet. Corner lots shall have, in addition, a side yard on the intersecting road of not less than 20 feet.
 - B. Side Yard. A side yard is not required except for corner lots as described above and except on the side of a lot abutting a residential or “I-D” district, in which case there shall be a side yard of not less than 15 feet.
 - C. Rear Yard. A rear yard is not required, except on the rear of a lot abutting a residential or “I-D” District, in which case there shall be a rear yard of not less than 20 feet.
 - D. Intensity of Use. No requirement, except for residential uses which shall conform to the same requirements of the “R-3” District.
4. Height Regulations. No requirement, unless the property is adjacent to an “I-D” or residential district, in which case the height requirements for “C-1” are used.

[The next page is 807]

168.13 LIGHT INDUSTRIAL DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “I-1” Light Industrial Districts.

1. Permitted Uses. A structure or premises shall be used only for the following purposes:

- A. Lumberyards;
- B. Laboratories;
- C. Warehousing;
- D. Manufacturing;
- E. Fabricating;
- F. Stills and accessory buildings for the production of alcohol if licensed and approved by the appropriate State and/or Federal regulatory agencies;
- G. Any use permitted in the “C-2” Commercial Districts, except residential uses;
- H. Any other industrial use, process or treatment whatsoever, provided that any noxious or offensive use be carried on entirely within buildings to avoid undue emission of odors, gas, smoke, or noise.

2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:

- A. Airports;
- B. Salvage or junk yards;
- C. Shooting ranges;
- D. Electrical and natural gas transmission, regulating and storage facilities;
- E. Telecommunications or microwave communications towers and/or wireless transmission towers as well as support buildings and structures.

3. Area Regulations. No requirement.

4. Height Regulations. No requirement, except that no structure shall be erected adjacent to an “I-D”, residential, or “C-1” District without providing a 12-foot setback from such boundary.

[The next page is 813]

168.14 HEAVY INDUSTRIAL DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “I-2” Heavy Industrial District.

1. Permitted Uses. The premises shall be used only for the following purposes:
 - A. Public sewage disposal and treatment plants;
 - B. Sawmills;
 - C. Stockyards;
 - D. Electrical and natural gas transmission, regulating and storage facilities;
 - E. Telecommunications or microwave communications towers and/or wireless transmission towers as well as support buildings and structures;
 - F. Any use permitted in the “I-1” District.
2. Conditional Uses. The following uses are permitted by special exception granted by the Board of Adjustment:
 - A. Acid manufacture;
 - B. Bulk storage of flammable liquids or gasses;
 - C. Cement, lime, gypsum or other similar manufacture;
 - D. Extraction of gravel, sand, stone, clay or other raw materials, including excavation associated with quarry or mining operations;
 - E. Explosive manufacture and storage;
 - F. Fat rendering;
 - G. Fertilizer manufacture;
 - H. Gas manufacture;
 - I. Garbage, offal or dead animal disposal;
 - J. Glue manufacture;
 - K. Packing plants and slaughter houses;
 - L. Petroleum refining;
 - M. Starch manufacture;
 - N. Shooting ranges;
 - O. Automobile race tracks and/or drag strips, all-terrain and motorized vehicle tracks, and snowmobile tracks;
 - P. Anhydrous ammonia;
 - Q. Grain drying;
 - R. Grain elevators;
 - S. Grain mixing, blending, and feed manufacturing plants;
 - T. Grain storage.

3. Area Regulations. No requirement.
4. Height Regulations. No requirement, except that no structure shall be erected adjacent to an “I-D”, residential, or “C-1” District without providing a 12-foot setback from such boundary.

[The next page is 825]

168.15 PUBLIC OPEN SPACE DISTRICT. The regulations set forth in this section, or set forth elsewhere in these regulations when referred to in this section, are the district regulations for the “P” Public Open Space District.

1. Permitted Uses. The premises shall be used only for the following purposes:
 - A. Public restroom structures;
 - B. Playground equipment;
 - C. Public band shells and bandstands;
 - D. Public swimming pool;
 - E. Picnic shelters;
 - F. Athletic complexes;
 - G. Bicycle and skating tracks;
 - H. Other uses customary and incident to the operation and maintenance of a public park.
2. Conditional Uses. None.
3. Area Regulations. No requirement.
4. Height Regulations. None.

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[The next page is 831]

CHAPTER 169

ZONING – SIGNS

169.01 Intent and Purpose
169.02 Permits Required

169.03 General Requirements
169.04 Billboard Requirements

169.01 INTENT AND PURPOSE. This chapter is intended to control and regulate the development of signs within the City. There is a significant relationship between the manner in which signs are displayed, the public health, safety, and welfare, and the value, compatibility, and economic stability of adjoining property, its land use, and the City. The reasonable display of signs is necessary as a service to the people in the conduct of competitive commercial and industrial activity and to promote freedom of expression. The regulations in this chapter establish standards for the display of signs in direct relationship to the above-stated purposes and directives.

169.02 PERMITS REQUIRED. All signs require a zoning permit unless the sign in question is:

1. An announcement or identification sign, not larger than four square feet in area, with the name and address of the owner or tenant residing on the premises.
2. A temporary sign, not larger than nine square feet in area, pertaining only to the lease, hire, or sale of a building or premises.

169.03 GENERAL REQUIREMENTS. All signs must comply with the following conditions:

1. No sign shall be placed so as to obstruct vision at street intersections and driveway intersections for oncoming vehicles.
2. When a permit is required on any particular sign, said sign shall legibly display the name of the owner and erector.
3. No sign shall block any required access way or window.
4. No sign shall be attached to trees, utility poles, or government road safety and identification signage.
5. No sign shall utilize illumination or lighting for the specific purpose of increasing sign visibility in a residential or “I-D” zoning district.

169.04 BILLBOARD REQUIREMENTS. All billboards must comply with the following conditions:

1. No billboard shall be erected less than 300 feet from any road intersection.
2. No billboard shall be erected less than 100 feet on either side of an ingress or egress of land lying along a highway.
3. Billboards shall be spaced at least 400 feet apart.
4. Any permit granted shall be subject to revocation by the Board of Adjustment at any time, and for any reason, on 90 days’ notice.

5. If after giving 90 days' notice of revocation, the owner has failed to remove the said billboard, the Board of Adjustment may, after giving 10 days' written notice of its intention to do so, remove and destroy the billboard.

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CHAPTER 170

ZONING – GENERAL REGULATIONS

170.01 Special Permit For Mixed Uses and

Land-leased Communities

170.02 Adult Entertainment Uses

170.03 Additional Area and Height Regulations

170.04 Off-Street Parking

170.05 Off-Street Loading and Unloading

170.06 Temporary Permits

170.07 Mobile Homes Not Permitted

170.01 SPECIAL PERMIT FOR MIXED USES AND LAND-LEASED COMMUNITIES.

The Council may, by special permit, upon recommendation of the Planning and Zoning Commission, authorize the combination of residential and commercial uses on a single parcel of land, provided the Board of Adjustment first grants a conditional use permit for mixed use. The Council may also, by special permit, upon recommendation of the Planning and Zoning Commission, authorize the placement of multiple single-family dwellings on a shared lot and/or leased areas used by owners of manufactured housing, provided the Board of Adjustment first grants a conditional use permit for “land-leased community.” Authorization of either may include construction and use of multiple main and accessory buildings on a single parcel of land to the extent that the intent of the mixed use or land-leased community is met. The following requirements must be met, however, before the Council may issue a special permit authorizing the uses mentioned in this section:

1. The use of the building is permitted within the district for which the request is located or permitted by conditional use permit issued pursuant to Chapter 168.
2. The buildings to be constructed and the intended uses of the buildings shall not be in any way inconsistent with the Comprehensive Plan of the City and shall follow design and layout requirements similar to that found in Chapter 175 of this Code of Ordinances (Subdivisions and Platting).
3. The buildings to be constructed and the intended use of the buildings shall be carried out in compliance with applicable laws, rules, regulations, and ordinances of the State of Iowa and of the City.
4. An application for the special permit along with a detailed site plan shall be submitted to the Zoning Administrator. The Zoning Administrator shall determine the format of the application and site plan and the number of copies of both required to be submitted. The site plan shall include the following information:
 - A. Location and dimensions of the parcel and existing and proposed buildings;
 - B. The areas to be developed for parking;
 - C. The location and type of surface to be constructed for sidewalks, driveways, roads and streets, alleys, access roads, points of ingress and egress, and easements for right-of-way;
 - D. The location and type of landscaping;
 - E. The location and types of utilities, if any, which exist or are to be installed, such as water lines, water wells, sewer or septic systems, electric power, telephone, natural gas, cable television lines and other

telecommunication services, including locations of easements to provide access, construction, installation and repair of the utilities;

F. The location and type of any outdoor lighting which exists or will be installed;

G. The location, type, and dimensions of existing and proposed signs;

H. The location and type of facilities for collection and disposal of garbage, trash, and other solid waste as well as collection and recovery of recyclable materials;

I. The existing or planned future uses of all adjoining parcels.

5. The Zoning Administrator shall forward copies of the special permit application and site plan for review and vote by the Board of Adjustment under the conditional use permit process.

6. If a conditional use permit is granted by the Board of Adjustment, then the special permit application and site plan along with the conditions established by the Board and the Zoning Administrator's recommendations shall be submitted to the Planning and Zoning Commission. The Commission shall hold a public hearing after public notice has been given as provided by law, and after the public hearing has been held shall submit a report to the City Council regarding the effect of the proposed buildings and uses upon the character of the neighborhood, traffic conditions and other matters relating to public safety, public health, and general welfare. No action shall be taken by the Council to approve the special permit until the report of the Commission has been submitted to the Council unless no action is taken by the Commission after 60 days from the time the Zoning Administrator submits the application and review comments to the Commission.

7. The City Council may impose, in addition to the conditions established by the Board of Adjustment, reasonable conditions on approval of the application to satisfy public concerns directly caused by the requested construction and use of the parcel.

8. The applicant shall submit a nonrefundable application fee, as determined by Section 165.07 of these regulations.

170.02 ADULT ENTERTAINMENT USES. Adult entertainment uses are prohibited within 1,000 feet from the following specified uses or zones:

1. From any residential zone or mixed use residential zone;
2. From any public or private school;
3. From any place of worship or religious facility or institution;
4. From any public park.

The distance provided in this section shall be measured by following a straight line, without regard to intervening buildings or terrain, from the nearest point of the property parcel upon which the proposed use is to be located, to the nearest point of the parcel or the land use district boundary line from which the proposed land use is to be separated.

170.03 ADDITIONAL AREA AND HEIGHT REGULATIONS. The regulations set forth in this section qualify or supplement, as the case may be, the area and height regulations set forth elsewhere in these regulations.

1. Area and Yards.

A. The yard requirements for public, semi-public, or public service buildings, institutions, or schools in the “I-D,” “R-1,” “R-2,” and “R-3” Districts are as follows:

(1) Front Yard. The minimum depth of the front yard shall be 50 percent in excess of the front yard depth required for such districts.

(2) Side Yards. The required minimum width of side yards shall be 25 feet.

(3) Rear Yards. The required minimum depth of rear yards shall be 50 feet.

B. Dwellings and accessory buildings on through lots in residential districts shall have a rear yard depth equivalent to the front yard depth required for such districts.

C. Accessory buildings and uses customarily incidental to that of the main building may be erected or established upon any lot or tract of land, provided they comply with the following:

(1) Accessory buildings which are not a part of the main building may be built in a rear yard within 5 feet of the rear lot line and within 3 feet of the side lot line, but shall not occupy more than 35 percent of the rear yard.

(2) If any portion of a detached accessory building is within a side yard of a main building on the same lot, such detached accessory building shall not be nearer to the side lot line than would be required for the building wall of a main building on the same lot.

(3) No detached accessory building is permitted within the limits of a front yard.

(4) No detached accessory building may be placed in any rear yard or any side yard so that any part of such building is nearer the street line than is permitted for a wall of a main building on the same lot.

(5) No accessory building shall be used for dwelling purposes.

(6) Not more than one vehicle housed in a private garage may be a commercial vehicle or of more than three-ton capacity, and not more than three spaces in a private garage may be leased to persons other than the residents on the premises.

(7) A paved terrace may project into a front yard for a distance not exceeding 5 feet.

D. Ramps. Ramps required for a medical need will be allowed within five (5) feet of any property line. Medical need shall be determined by the property owner/resident’s physician and will be required in writing prior to the issuance of a zoning permit.

E. Fences. Fences shall be constructed a minimum of one (1) foot inside the property owners property lines. Fences constructed on the property line shall be permitted with written and notarized consent of the abutting property

owner(s). Fences constructed on the property line abutting City property shall be permitted with notarized consent of the Zoning Administrator.

(D& E added by Ord. 33 – Jan. 17 Supp.)

2. Height. Fences, hedges, billboards and walls not exceeding 6 feet in height are permitted within the limits of a side and rear yard and not exceeding 4 feet in height within the limits of a front yard, provided that no fence, hedge, billboard, or wall shall be permitted within 150 feet of the center of a road intersection which cannot be viewed over from a point 4 feet above the traveled roadway.

170.04 OFF-STREET PARKING. Off-street parking shall be provided for use in conjunction with occupancies of buildings, constructed, replaced, converted, or remodeled as hereinafter defined for multi-family dwellings and all uses associated with “C-2,” “I-1,” and “I-2” permitted uses respectively. Off-street parking space shall be provided within the building, on the premises, or on a permanently reserved space on another lot, any portion of which is within 200 feet of the building. Minimum requirements for off-street parking are the following:

1. One off-street parking space shall be provided for each family occupying a structure containing multiple-family dwelling units.
2. Hotels, motels, and lodging houses hereafter erected shall provide one off-street parking space for each individual sleeping or living unit.
3. Churches, schools, auditoriums, theatres, stadiums, or other similar places of public assembly hereafter erected shall provide one off-street parking space for each four seats of the audience seating capacity provided in the main auditorium or stadium.
4. Commercial buildings, lodges, clubs, and fraternal organizations hereafter erected shall provide one parking space for each 200 square feet of the floor area of the main building.
5. Office buildings, including professional and private office buildings, hereafter erected shall provide one off-street parking space for each 400 square feet of floor area in the building.
6. Public and semi-public buildings and similar institutions hereafter erected shall provide one off-street parking space for each 400 square feet of floor area in the building.
7. Industrial buildings or warehousing operations hereafter erected shall provide one off-street parking space for each 400 square feet of floor area of the main building or for each two employees, whichever is less.
8. Off-street parking space shall be provided for any increase in floor area of any existing building in the same ratio as the above requirements for the particular use for which the building addition is intended.

170.05 OFF-STREET LOADING AND UNLOADING. Any building erected or converted for any commercial or industrial use shall provide not less than one truck unloading space either within the building or upon the lot and adjacent to the building for each 10,000 square feet of floor area or fraction thereof.

170.06 TEMPORARY PERMITS. All permits indicated herein as temporary shall be issued by the Zoning Administrator and thereby authorize a given temporary use for a period not longer than three months. Applicants desiring a longer period of time may request a variance from the Board of Adjustment as described in Chapter 167.

170.07 MOBILE HOMES NOT PERMITTED. In no case shall a permit be issued for the use of a mobile home as a residence, regardless of district. See definition of “mobile home.”

[The next page is 875]

CHAPTER 175

SUBDIVISIONS AND PLATTING

175.01 Title	175.13 Major Subdivision Plat
175.02 Authority and Purpose	175.14 Resubdivision
175.03 Jurisdiction	175.15 Plat Vacation
175.04 Fees	175.16 Vested Rights and Development Agreements
175.05 Interpretation; Conflicts	175.17 Utilities and Improvements
175.06 Saving Provision	175.18 Requirements For On-Site Water and Sewer Facilities
175.07 Rules of Operation	175.19 Standards For Construction Drawings
175.08 Definitions	175.20 Inspection
175.09 Site Plan Procedure	175.21 Completion Inspection
175.10 Application and Fees	175.22 Subdivision Design Standards
175.11 Property Line Adjustment and Limited Subdivisions	175.23 Post-Filing Procedures
175.12 Minor Subdivision Plat	175.24 Variances and Appeals

175.01 TITLE. This chapter shall be officially known, cited, and referred to as the “Subdivision and Platting Ordinance of New London, Iowa,” hereinafter referred to as “these regulations” or “this chapter.”

175.02 AUTHORITY AND PURPOSE. These regulations are adopted pursuant to the authority delegated to the City under Section 354.1 of the *Code of Iowa* and allows for the promotion of orderly community development consistent with the City’s Comprehensive Plan. It is therefore determined to be in the public interest:

1. To provide for accurate, clear, and concise legal descriptions of real estate in order to prevent, wherever possible, land boundary disputes or real estate title problems;
2. To protect and provide for the public health, safety, and general welfare of the City;
3. To provide for a balance between the land use rights of individual landowners and the economic, social, and environmental concerns of the citizenry of New London;
4. To guide the future growth and development of New London, Iowa in accordance with the City’s Comprehensive Plan;
5. To inform the subdivider and public of the requirements and conditions necessary to obtain approval of a subdivision.

175.03 JURISDICTION. It is unlawful for any person being the owner, agent, or person having control of any land within the incorporated area of the City to create a division of land, whether by sale, lease, mortgage, or plat, that is not in accordance with the regulations contained herein. The City also exercises the authority granted by Chapter 354.9 of the *Code of Iowa* to review and enforce these regulations on all land within one mile of the City’s incorporated boundary. No plat or conveyance of land shall be recorded until approved as herein provided and all public lands and rights have been dedicated to the governing body having jurisdiction for the area in which it is located.

175.04 FEES. The Council shall establish, by resolution, a fee schedule designating charges that bear a reasonable relationship to the costs of administering the processes described herein.

175.05 INTERPRETATION; CONFLICTS. In the interpretation or application of these regulations, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare. More stringent provisions may be required if it is demonstrated that different standards are necessary to meet the needs of the City's Comprehensive Plan. Where the conditions imposed by any provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of these regulations or of any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

175.06 SAVING PROVISION. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the City government except as shall be expressly provided for in these regulations.

175.07 RULES OF OPERATION.

1. When Subdivision is Required. The subdivision platting procedure outlined in this chapter must be followed when any land within the jurisdiction of this chapter is divided into two or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development. See "Subdivision" in Section 175.08 for a full definition.
2. Duties of the Administrator. It shall be the duty of the City Clerk or Council designee to enforce the provisions of these regulations and to bring to the attention of the City Attorney any violations or lack of compliance. The City Clerk or Council designee shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations. Appropriate actions and proceedings may be taken in 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 and to prevent illegal occupancy of a building structure or premises.

175.08 DEFINITIONS. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated herein.

1. "Abut" means to physically touch or border upon or to share a common property line but not to overlap.
2. "Adjoining lot" or "land" means a lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.
3. "Agent" means the authorized agent of the owner or representative for the owner.
4. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of

one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

5. “Alley” means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

6. “Applicant” means the owner of land proposed to be subdivided or developed, or an agent who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

7. “Auditor’s plat” means a subdivision plat required by either the County Auditor or the Assessor, prepared by a surveyor under the direction of the County Auditor.

8. “Berm” means a mound of soil, either natural or manmade.

9. “Block” means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, boundary lines of municipalities, or the boundary of the subdivision or a combination thereof.

10. “Bond” means any form of a surety bond in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council whenever a bond is required by these regulations.

11. “Boundary” means a defined limit of a given parcel at which ownership of the parcel terminates.

12. “Buffer” means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the site to adjacent sites or properties.

13. “Building” means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

14. “Channel” means the bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

15. “Cluster development” means a development approach in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. The additional land that remains undeveloped is then preserved as open space, recreational land, or public purposes.

16. “Commission” means the City’s Planning and Zoning Commission.

17. “Common open space” means land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development. It may include complementary structures and improvements.

18. “Comprehensive Plan” means the New London Comprehensive Plan, its intentions, and the intentions of New London’s land use and development ordinances.

19. "Condominium" means a unit available for sale in fee simple contained in a multi-occupancy project subject to covenants and restrictions placing control over the common facilities in an elected board.
20. "Conveyance" means an instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.
21. "Cul-de-sac" means a local street with only one outlet that terminates in a vehicular turnaround that facilitates safe and convenient reversal of traffic movement.
22. "Culvert" means a structure designed to convey a watercourse not incorporated in a closed drainage system under a road or pedestrian walk.
23. "Curb" means a vertical or sloping edge of a roadway.
24. "Dead-end street" or "dead-end road" means a road or a portion of a road with only one vehicular traffic outlet.
25. "Dedication" means a transfer of property by the owner to another party.
26. "Density" means the permitted number of dwelling units per gross acre of land to be developed.
27. "Design standards" means standards that set forth specific improvement requirements.
28. "Detention basin" means an artificial or natural water collector facility designed to collect surface and sub-surface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property, into natural or artificial outlets.
29. "Developer" means the legal or beneficial owner or holder of land (or the holder of an option or contract to purchase land) proposed to be developed and/or divided.
30. "Development" means a planning or construction project involving substantial property improvement and, usually, a change of land-use character within the site; the act of using land for building or extractive purposes.
31. "Development agreement" means a binding, contractual agreement between the subdivider of a proposed subdivision and the City.
32. "Division" means dividing a tract or parcel of land into two or more parcels of land by way of platting, conveyance, or for tax purposes. The conveyance of an easement is not considered a division. See also "subdivision."
33. "Double frontage lot" means a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.
34. "Drainage" means the removal of surface water or groundwater from land by drains, grading, or other means.
35. "Driveway" means a paved or unpaved area used for ingress or egress of vehicles, and allowing access from a street to a building or other structure or facility.
36. "Easement" means authorization by a property owner for another to use the owner's property for a specified purpose on a designated part of the owner's property.
37. "Erosion" means the detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice, or gravity.

38. “Escrow” means a deed, a bond, money, or a piece of property delivered to the City or an escrow agent to secure the promise to perform some act.
39. “Final plat” means the final map of all or a portion of a proposed subdivision which is presented for final approval.
40. “Frontage” means that side of a lot abutting on a street; the front lot line. On corner lots, the frontage must be consistent with the orientation of the other lots and improvements on the same side of the street.
41. “Government lot” means a tract, within a section, which is normally described by a lot number as represented and identified on the township plat of the United States Public Land Survey System.
42. “Grade” means the slope of a road, street, or other public way specified in percentage terms.
43. “Health Department” means the Board of Health for the County, established pursuant to Chapter 137, *Code of Iowa*.
44. “Historic site” means a structure or place of historical significance, designated as such by County, State, or Federal government.
45. “Homeowners association” – See “property owners association.”
46. “Impervious surface” means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.
47. “Improvement” means any artificial, immovable item which becomes part of, placed upon, or is affixed to, real estate.
48. “Incorporated area” means within a municipal boundary; City.
49. “Legal description” means a description defining land boundaries legally sufficient for the purpose of sale and conveyance, tax assessment and collection, and recording.
50. “Limited subdivision” means a single division of a tract or parcel which has negligible impact on road use, City services, and general public welfare as determined by the Commission.
51. “Lot” means a tract of land represented and identified by a number or letter designation on an official plat.
52. “Lot line” means a line that establishes a given boundary of a lot.
53. “Maintenance guarantee” means any security which may be required and accepted by the City to ensure that necessary improvements will function as required for a specific period of time.
54. “Major subdivision” means all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension of the local government facilities or the creation of any public improvements.
55. “Master deed” means that deed which defines the original parcel to be subdivided or the entirety of the subdivision prior to the sale of individual lots.
56. “Minor subdivision” means any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road, or the

extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the comprehensive plan, zoning ordinance, official zoning map, or these regulations.

57. “Off-street parking space” means a parking space provided in a parking lot, parking structure, or private driveway.

58. “Official plat” means either an auditor’s plat or a subdivision plat that meets the requirements of Chapter 354 of the *Code of Iowa* and has been filed for record in the Offices of the County Recorder, Auditor, and Assessor.

59. “Open space” means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

60. “Ordinance” means any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

61. “Owner” means the record owners, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be divided.

62. “Parcel” means a part of a tract of land.

63. “Performance guarantee” means any security that may be accepted by the City as a guarantee that the improvements required as part of an application for development are satisfactorily completed.

64. “Planned unit development (PUD)” means a development constructed on a parcel or tract of minimum size, as specified by ordinance, to be planned, developed, operated, and maintained as a single entity and consisting of a combination of residential and/or nonresidential uses on the land.

65. “Planning and Zoning Commission” means the City Planning and Zoning Commission or another five-member Commission expressly appointed by the City Council for the purpose of serving in the capacity described in these regulations.

66. “Plat” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

67. “Preliminary plat” means the preliminary drawing or drawings that indicate the proposed manner or layout of the subdivision to be submitted for review prior to submittal of the final plat.

68. “Property line” means a line that establishes a given boundary of property ownership.

69. “Property Line Adjustment” means a subdivision of one (1) or more lots or parcels which no additional lots or parcels shall be created, no part of the divided lot or parcel of land will be transferred to anyone but the owner or owners of a lot or parcel of land abutting that part of the divided lot or parcel of land to be transferred and no new lot or parcel shall conflict with any provision or portion of the City Zoning Ordinance or this Ordinance.

70. “Property owner’s association” means an association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision – be it a lot, parcel, condominium, or any other interest – is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a prorated share of expenses of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.
71. “Public Works Supervisor” means the public works supervisor for the City.
72. “Resubdivision” means any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
73. “Retention basin” means a pond, pool, or basin used for the permanent storage of water runoff.
74. “Reverse frontage lot” means a through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.
75. “Right-of-way” means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use.
76. “Road” – See “street.”
77. “Road right-of-way width” means the distance between property lines measured at right angles to the centerline of the street.
78. “Section” means a numbered one-square-mile area formed by the United States Public Land Survey System, usually referred to by a number and the range and township for which it is located.
79. “Sewer” means any pipe conduit used to collect and carry away sewage or storm water runoff from the generating source to treatment plants or receiving streams.
80. “Sidewalk” means a paved path provided for pedestrian use and usually located at the side of a road within the right-of-way.
81. “Site plan” means a rough plan of a proposed subdivision that illustrates the existing conditions on a land parcel as well as depicting details of a proposed development.
82. “Street” means any street, avenue, boulevard, road, parkway, viaduct, drive, or other roadway.
83. “Structure” means anything constructed or erected including those structures constructed off-site and transported to on-site.
84. “Subdivide” means the process or act of creating a subdivision.
85. “Subdivider” means any person who: (i) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or (ii) directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, unit, or plat in a subdivision; or (iii) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development in a subdivision or any interest, lot, parcel, unit, or plat

in a subdivision; and any person who is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

86. “Subdivision” means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. Subdivision includes resubdivision and condominium creation or conversion. The term, when appropriate to the context, may refer to the process of subdividing or to the land subdivided.

87. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county in which it is located.

88. “Subgrade” means the natural ground lying beneath a road.

89. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.

90. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

91. “Vested rights” means right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect when the project associated with the use is completed.

92. “Zoning Administrator” means the individual tasked by the Council with enforcement of the Zoning Ordinance.

93. “Zoning Ordinance” means the City of New London, Iowa, zoning ordinance (Chapters 165 through 170 of this Code of Ordinances).

(Ord. 24 – Jan. 14 Supp.)

175.09 SITE PLAN PROCEDURE. The purpose of this section is to establish the procedure for review and action on applications for potential subdivisions within the jurisdiction of New London. The procedure is intended to provide orderly and efficient review of proposals by the Commission to expedite development proposals and avoid unnecessary difficulties in the plat review process.

1. **Timing and Contents.** The subdivider provides the site plan to the Planning and Zoning Commission for review. The site plan shall provide information necessary to determine the location, size, and general layout of the subdivision proposal. The site plan shall be legible and reproducible and indicate the proposed use of the lots to be created as well as the rough locations and dimensions of streets, water and sewer lines, parking areas, landscaping, and water bodies. The site plan shall be submitted to the City Clerk for distribution to the Commission. The site plan as submitted may indicate names for proposed streets. The Commission shall review all road names and shall consult the local postmaster for potential name similarities or conflicts with existing names prior to giving recommendation to the Council. Names shall be sufficiently different in sound and spelling from other road names in the City so as not to cause confusion. A road which is (or is planned as) a continuation of an

existing road shall bear the same name. The Commission shall have 60 days from the date of site plan submission to the City Clerk to review and make recommendations to the subdivider. The review shall take place during a public meeting of the Commission following procedures outlined in Chapter 21.3 of the *Code of Iowa*.

2. Completion of the Site Plan Review Process. Upon completion of its review, the Commission shall issue an oral recommendation to the subdivider based upon a popular vote of the Commission. Following this oral recommendation, the subdivider may request a written recommendation from the Commission within 30 days of the oral recommendation. The written recommendation shall be attested by the Commission Chairperson as being accurate and consistent with the minutes of the aforementioned meeting. Provided the site plan meets approval or conditional approval by the Commission, the applicant has one year from the date of approval in which to submit a preliminary or final subdivision plat as directed by the Commission. Failure to submit within one year of the approval date requires the applicant to submit a new site plan for approval by the Commission.

175.10 APPLICATION AND FEES. Following the site plan review process detailed in Section 175.09, the subdivider may make application for platting the proposed subdivision. The Commission shall indicate in its site plan report which of the following types of subdivision are required and the associated fee for application:

1. Limited subdivision;
2. Minor subdivision;
3. Major subdivision.

175.11 PROPERTY LINE ADJUSTMENT AND LIMITED SUBDIVISIONS. The property line adjustment and limited subdivision procedure consists of one step after the site plan review: plat of survey. If the Commission deems the subdivision to be a property line adjustment or limited subdivision, the applicant shall file a plat of survey with the County Recorder as per Section 354 of the *Code of Iowa* along with a statement signed by the Chairperson of the Commission certifying its approval status. *(Ord. 24 – Jan. 14 Supp.)*

175.12 MINOR SUBDIVISION PLAT. The minor subdivision procedure consists of one step after the site plan review: final subdivision plat. If the Commission deems the subdivision to be a minor subdivision, the applicant shall follow the following procedure:

1. Upon the determination of a minor subdivision, the City Clerk shall place the matter on the next available regular meeting agenda of the Planning and Zoning Commission for formal approval, disapproval, or conditional approval.
2. Final subdivision plat applications shall be accompanied by 12 copies of the subdivision plat, drawn to the specifications contained in this chapter and to the specifications of Chapter 354 of the *Code of Iowa* as they pertain to final plats. The final plat must comply in all respects with the site plan as approved and must be submitted to the City Clerk at least two weeks prior to a regular meeting of the Commission to allow for proper notice of public hearing.
3. The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks and easements, in a form approved by the City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication.

4. The final subdivision plat application shall be accompanied by the subdivision improvement agreement and security, if required, in a form satisfactory to the City Attorney and in an amount established by the council upon recommendation by the Public Works Supervisor and/or utilities foreman.
5. If not intended for municipal services, the final subdivision plat shall be properly endorsed by the County Health Department or designee with respect to all sewer and water facilities and comply with all the standards of design as set forth in this chapter.
6. The City Clerk shall post public notice of a Commission hearing on the final subdivision plat application; following which, the Commission shall have 35 days from the date of first public hearing to approve or disapprove the application by majority vote. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval shall accompany the plat.
7. In the event of disapproval by the Commission, the applicant may appeal pursuant to Section 175.24(2) of these regulations.
8. Following the Commission approval of the final subdivision plat, the Council shall review and decide on the application. The Council may approve or disapprove the proposed subdivision based upon the recommendation of the Commission and City Public Works Supervisor and/or utilities foreman. The Council shall have 60 days from the date of first public hearing in which to make its decision.

175.13 MAJOR SUBDIVISION PLAT. The major subdivision procedure consists of two steps after the site plan review: preliminary and final subdivision plats. If the Commission deems the subdivision to be a major subdivision, the applicant shall follow the following procedure:

1. Upon the determination of a major subdivision, the City Clerk shall place the matter on the next available regular meeting agenda of the Commission for formal approval, disapproval, or conditional approval of the preliminary plat. The applicant has one year from the date of site plan approval in which to apply for preliminary plat approval. Failure to apply for preliminary plat approval within the one-year period requires the applicant to submit a new site plan for approval by the Commission. Preliminary plat applications shall be accompanied by 12 copies of the subdivision plat, drawn to the following specifications: The preliminary plat shall meet the standards of design as set forth in this chapter, shall be drawn to a scale of not less than one inch to 100 feet, and shall show the following information:
 - A. The title under which the proposed subdivision is to be recorded, with the name and address of the owner and subdivider; also north point, scale, date, name and address of surveyor and engineer;
 - B. The complete legal description of the property to be platted;
 - C. Existing contour intervals of not more than five feet for predominate ground slopes within the subdivision greater than ten percent and contour intervals of not more than two feet for predominate ground slopes within the subdivision between level and ten percent;
 - D. The location of property lines and all such surface features as buildings, railroads, utilities, water courses and similar items affecting the development; also the location and size of such sub-surface features as

existing or nearest available storm and sanitary sewers, water mains, wells, manholes, culverts, gas mains, above- and below-ground electric transmission lines or cables, and drain tiles;

E. Boundary lines of adjacent subdivisions, tracts, and parcels with respective acreage and names of record owners;

F. Parcels of land proposed for dedication or temporarily reserved for public use or set aside for common open space in the subdivision including, but not limited to, schools, parks, or other public uses;

G. The location of the subdivision including section, township, and range using the Public Land Survey System;

H. The location of the nearest section corner and monument;

I. Location, widths, approximate grades, and names of existing and proposed streets within 200 feet of the proposed subdivision and within the subdivision itself;

J. Existing and proposed easements for water, sewage, drainage, utility lines, fencing and other purposes with their locations, widths and distances; and

K. Acreage of the land to be subdivided and a clearly delineated boundary on the drawing.

An inset vicinity map at a scale of not more than 500 feet to the inch, shall be shown on or accompany the proposed plat. This map shall show how streets and roads in the proposed subdivision may connect with existing and proposed streets and roads in neighboring subdivisions or undeveloped property, to produce the most advantageous development of the entire area. This sketch shall show the location of any nearby parks, schools, or other public facilities that might be affected by the proposed subdivision.

2. The preliminary plat must comply in all respects with the site plan as approved and must be submitted to the City Clerk at least four weeks prior to a regular meeting of the Commission to allow for proper Commission review and notice of public hearing.

3. The Commission shall have 60 days from the first public hearing to approve, conditionally approve, or disapprove the application by majority vote. One copy of the preliminary plat shall be returned to the applicant with the date of approval, conditional approval, or disapproval noted on the plat and the applicant shall be advised of any required changes and/or additions.

4. The Commission is authorized to disapprove the preliminary plat even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the Comprehensive Plan. In the event of disapproval by the Commission, the applicant may appeal pursuant to Section 175.24 of this chapter.

5. Following the Commission approval of the preliminary subdivision plat, the City Council shall review and decide on the application. The Council may approve, conditionally approve, or disapprove the proposed preliminary plat based upon the recommendation of the Commission and City Public Works Supervisor and/or utilities

foreman. The Council shall have 60 days from the date of first public hearing in which to make its decision.

6. The Council may require that all public improvements be installed and dedicated prior to the signing of the final subdivision plat by the Mayor. Otherwise the Council shall require that the applicant execute a subdivision improvement agreement and provide security for the agreement as provided for in Section 175.23 of this chapter.

7. For the purpose of allowing the early construction of model homes in a subdivision, the Council, in its sole discretion, may permit no more than two lots of a major subdivision to be created in accordance with the procedure for minor subdivisions, provided no substantial improvements will need to be made to facilitate such model homes. The subdivision plat for the model home portion shall be submitted to the Commission simultaneously with the preliminary plat for the entire major subdivision. The construction of model homes must adhere to the requirements of the Zoning Ordinance of the City.

8. Provided the preliminary plat meets approval or conditional approval by the City Council, the applicant has one year from the date of approval in which to submit a final subdivision plat. Failure to submit within one year of the approval date requires the applicant to submit a new site plan for approval by the Commission.

9. Final subdivision plat applications shall be accompanied by 12 copies of the subdivision plat, drawn to the specifications contained in this chapter and to the specifications of Chapter 354 of the *Code of Iowa*. The final plat must comply in all respects with the preliminary plat as approved and must be submitted to the City Clerk at least two weeks prior to a regular meeting of the Commission to allow for proper notice of public hearing.

10. The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks and easements, in a form approved by the City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication.

11. The final subdivision plat application shall be accompanied by the subdivision improvement agreement and security, if required, in a form satisfactory to the City Attorney and in an amount established by the Council upon recommendation by the Public Works Supervisor and/or utilities foreman.

12. If municipal services are not provided, the final subdivision plat shall be properly endorsed by the Health Department or designee with respect to all sewer and water facilities.

13. The City Clerk shall post public notice of a Commission hearing on the final subdivision plat application; following which, the Commission shall have 35 days from the Commission's first official meeting to review to approve or disapprove the application by majority vote. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval shall accompany the plat.

14. In the event of disapproval by the Commission, the applicant may appeal pursuant to Section 175.24(1) of this chapter.

15. Following the approval of the final subdivision plat, the Council shall review and decide on the application. The Council may approve or disapprove the proposed subdivision based upon the recommendation of the Commission and City staff. The Council shall have 60 days from the date of first official meeting to review the plat in which to make its decision.

175.14 RESUBDIVISION. Whenever a developer desires to resubdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land beginning with the site plan review process detailed in Section 175.09 of this chapter. Resubdivision includes:

1. Any change in any street layout or any other public improvement;
2. Any change in any lot line;
3. Any change in the amount of land reserved for public use or the common use of lot owners;
4. Any change in any easements shown on the approved plat.

Whenever land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there is reason to believe that such lots eventually will be resubdivided, the Council may require that the applicant allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of streets may be made a requirement of plat approval.

175.15 PLAT VACATION. Plat vacation may be initiated by either the property owner or by the City.

1. Owner or Owner's Agent Initiated Vacation. The owners of lots in any approved subdivision, including the agent, may petition the Council to vacate the plat with respect to their properties. The petition shall be filed in triplicate with the City Clerk and one copy shall be referred to the Council by the City Clerk.

A. Notice and Hearing. The City Clerk shall publish notice in a newspaper of general circulation and provide personal notice of the petition for vacation to all owners of property within the affected subdivision and shall state in the notice the time and place for a public hearing on the vacation petition. The public hearing shall be no sooner than four and no later than ten days after the published and personal notice.

B. Criteria. The Council shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare; but in no event may the Council approve petition for vacation if it will materially injure the rights of any non-consenting property owner or any public rights in public improvements unless expressly agreed to by the governing body for which said improvements or rights are located.

C. Recordation of Revised Plat. Upon approval of any petition for vacation, the Council shall direct the petitioners to prepare a revised final subdivision plat in accordance with these regulations. The revised final subdivision plat may be recorded only after having been signed by the Mayor and the City Attorney.

2. Government Initiated Plat Vacation. The Council, on its motion, may vacate the plat of an approved subdivision by means of the following procedure:

A. General Requirements. The Council may vacate a previously approved subdivision plat provided any one of the following circumstances exists:

(1) No lots within the approved subdivision have been sold within five years from the date that the plat was signed by the Mayor.

(2) The developer has breached a subdivision improvement agreement and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the developer or its successor.

(3) The plat has been of record for more than five years and the Council determines that the further sale of lots within the subdivision presents a threat to public health, safety, and welfare, except that the vacation shall apply only to lots owned by the developer or its successor.

B. Procedure. Upon any motion of the Council to vacate the plat of any previously approved subdivision, in whole or in part, the City Clerk shall publish notice in a newspaper of general circulation and provide personal notice to all property owners within the subdivision. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision plat. The public hearing shall be no sooner than four and no later than ten days from the date of the published and personal notice. The Council shall approve the resolution effecting the vacation only if the criteria in paragraph 1(B) of this section are satisfied.

C. Recordation of Notice. If the City Council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the Council's minutes and the County Recorder's office. If the Council adopts a resolution vacating a plat in part, it shall record a copy of the resolution as described above and cause a revised final subdivision plat to be recorded which shows that portion of the original subdivision plat that has been vacated and that portion that has not been vacated.

175.16 VESTED RIGHTS AND DEVELOPMENT AGREEMENTS. Except as otherwise provided in this Section, no vested rights shall accrue to the owner of any subdivision or subdivider by reason of preliminary or final plat approval until the actual signing of the final plat by the Mayor, nor does the recordation of a final plat accrue vested rights to the owner or subdivider. The City may enter into a development agreement which shall contain those terms and conditions agreed to by the parties involved. The City Attorney is authorized to negotiate development agreements on behalf of the City. The agreement shall contain a clause that any breach of the development agreement by the City shall give rise only to damages, and a clause that the City's duties under the agreement are expressly conditioned upon the subdivider's substantial compliance with each and every term, condition, provision, and covenant of the agreement, all applicable Federal, State and local laws and regulations, and its obligations under the subdivision improvement agreement.

175.17 UTILITIES AND IMPROVEMENTS. Improvements must be provided by the subdivider and the Council may require that all public improvements be installed and dedicated prior to the signing of the final subdivision plat by the Mayor. Otherwise the

Council shall require that the subdivider execute a subdivision improvement agreement and provide security for the agreement, or bonding. The subdivider or subdivider's agent shall be responsible for the following:

1. Securing any and all permits required for completion of the project.
2. Providing for the safety and protection of all those engaged in the project, not allowing any unsafe conditions to exist.
3. Acquiring materials and producing workmanship which conforms to the City standards and specification. Substandard installations and materials are subject to removal and replacement at the subdivider's or agent's expense.
4. Ensuring that all work is performed in a manner acceptable by the City Public Works Supervisor and/or utilities foreman.
5. Obtaining approval of plans and specifications for all proposed infrastructure from the City Public Works Supervisor and/or utilities foreman. If no work is done within six months of approval, the plans and specifications must be re-submitted and become subject to re-approval under the latest City standards and specifications.
6. The subdivider or agent shall allow on-site inspections by the City Public Works Supervisor and/or utilities foreman as the work progresses and final acceptance of the work shall be contingent upon a final inspection of the site by the City Public Works Supervisor and/or utilities foreman.
7. All utilities, private or public, shall be placed underground unless approved or specified otherwise by the City Council. This includes, but is not limited to, telephone, gas, electric power, water, sewer, and storm drains. These underground utilities shall be installed before the surfacing of the streets and installation of road base, curb and gutter, sidewalks, etc.
8. Accurate and proper placement of survey monuments.
9. Proper cleanup of the area upon completion of the project.
10. Compliance with Iowa Department of Transportation standards in all matters not specifically covered by these regulations or waived by the City Council.
11. Completion of all necessary public improvements on streets adjacent to the proposed subdivision.
12. Proper storm water management methods such as retention or detention, and/or the construction of offsite drainage improvements may be required to mitigate the impacts of proposed subdivisions.

175.18 REQUIREMENTS FOR ON-SITE WATER AND SEWER FACILITIES. In instances where a subdivision cannot be properly serviced by municipal water and/or sewer services but is still approved by the Council, said development must comply with the laws and requirements of the County in which it is located with respect to on-site water and sewer facilities.

175.19 STANDARDS FOR CONSTRUCTION DRAWINGS. The following instructions are for the purpose of standardizing the preparation of drawings to be used by the City Public Works Supervisor and/or utilities foreman when reviewing and inspecting improvements to be built by the subdivider or subdivider's agent. All drawings and/or prints shall be clear and legible and conform to good engineering and drafting room practice. Size of drawings shall

be 22 inches by 34 inches (trim line) with ½-inch border on top, bottom, and right sides. Left side shall be 1½-inch.

1. In general, the following shall be included on construction drawings:
 - A. North arrow (plan);
 - B. Scale and elevations referenced to City datum;
 - C. Stationing and elevations for profiles;
 - D. Title block, located in lower right corner of sheet, to include:
 - (1) Name of City
 - (2) Project title (subdivision, etc.)
 - (3) Specific type and location of work
 - E. Space for approval signature of Public Works Supervisor and/or utilities foreman and date;
 - F. Licensed Engineer's official seal with license number and signature.
2. Curb and gutter, drains and drainage structures, signing, lighting, sidewalks, and street surfacing shall show:
 - A. Scale: one inch equals 20 feet or 50 feet horizontal; one inch equals two feet or five feet vertical;
 - B. Both plan view and profile; street centerline;
 - C. Stationing and top of curb elevations with curve data must be shown for all curb returns. Show top of curb elevation on both sides on even stations (50 ft. Sta. Max.);
 - D. Flow direction and type of cross drainage structures at intersections with adequate flow line elevations;
 - E. Benchmark location and elevation (use City datum);
 - F. Bedding details.
3. Sewer drawings shall show:
 - A. Scale: one inch equals 20 feet or 50 feet horizontal; one inch equals two feet or five feet vertical;
 - B. Location, size, and grade of all lines except individual services;
 - C. Manhole details, size, location, and flow line elevation;
 - D. Type of pipe;
 - E. Benchmark location and elevation (use City datum);
 - F. Bedding details.
4. Culinary and secondary water drawings shall show:
 - A. Size and location of water mains, valves, hydrants, tees, etc;
 - B. Type of pipe;
 - C. Minimum cover;
 - D. Bedding details.

175.20 INSPECTION. All construction work involving the installation of improvements shall be subject to inspection by the City Public Works Supervisor and/or utilities foreman. Certain types of construction shall have continuous inspection, while others shall have periodic inspections. Continuous inspections require that no work be done except in the presence of the Public Works Supervisor and/or utilities foreman.

1. Continuous inspection may occur on the following types of work:
 - A. Preparation of street subgrade and compacted fill;
 - B. Laying of street surfacing;
 - C. Pouring of concrete for curb and gutter, sidewalks, and other structures;
 - D. Laying of sewer pipe, drainage pipe, water pipe, valves, hydrants, and testing.
2. Periodic inspections shall be required on the following:
 - A. Street grading and gravel base;
 - B. Excavations for curb and gutter and sidewalks;
 - C. Excavations for structures;
 - D. Trenches for laying pipe;
 - E. Forms for curb and gutter, sidewalks, and structures.

175.21 COMPLETION INSPECTION. A final inspection shall be made by the City Public Works Supervisor and/or utilities foreman after receiving a written document from the subdivider or agent that all work is completed. Attached to this document shall be the subdivider's or agent's engineer's statement that all sanitary sewers and water lines installed have been tested and meet State standards.

175.22 SUBDIVISION DESIGN STANDARDS.

1. Generally. The purpose of subdivision and site plan standards is to create a functional development that minimizes adverse impacts and acts as an asset to the general safety and welfare of the City. To promote this purpose, the subdivision and/or site plan shall conform to the following standards which are designed to result in a well-planned community without adding unnecessarily to development costs. A site design must be subject to an analysis of its characteristics such as site context; geology and soil; topography; climate; ecology; existing vegetation, structures, and road networks; visual features; and past and present use of the site. In addition, the site design shall:
 - A. Comply with all applicable statutory provisions and all applicable laws of the appropriate jurisdictions;
 - B. Comply with the Zoning Ordinance and Comprehensive Plan;
 - C. Consider all existing municipal and regional plans;
 - D. Comply with the rules and regulations of the County Health Department and/or appropriate State or other agencies;
 - E. Comply with the rules and regulations of the Iowa Department of Transportation;
 - F. Attempt to preserve natural features, avoid areas of environmental sensitivity, and minimize negative impacts and alteration of natural features;
 - G. Preserve unique and/or fragile areas, including natural and historic resources and fragile ecosystems (including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and habitats for endangered wildlife pursuant to Section 352.1 of the *Code of Iowa*);

H. Preserve steep slopes in excess of 20 percent as measured over a 10-foot interval unless appropriate engineering measures concerning slope stability, erosion, and resident safety are taken;

I. Be laid out to avoid adversely affecting ground water and aquifer recharge; reduce cut and fill; avoid unnecessary impervious surfacing; prevent flooding; provide adequate access to lots and sites; and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

Residential development design may utilize cluster development to promote flexibility, economy, and environmental soundness as well as provide for sufficient access by emergency vehicles. Commercial and industrial developments shall be designed according to the same principles as residential developments, but with special attention to adverse impacts on surrounding property and environmentally sensitive areas. Roads within developments shall be designed to permit the safe, efficient, and orderly movement of traffic.

2. Street Plans and Design. The design of the proposed subdivision in relation to streets, blocks, lots, open spaces, and other design factors shall be in harmony with the Comprehensive Plan and the design standards recommended by the City Public Works Supervisor and/or utilities foreman. Design standards shall be approved by the Council and shall include provisions as follows:

A. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing State or County highway, official County road, official municipal road, or a street shown upon a plat approved by the City Public Works Supervisor and/or utilities foreman and recorded in the County Recorder's office.

B. Roads shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.

C. All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

D. Minor or local streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to the property.

E. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

F. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location

of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

G. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the continuation is in accordance with the City road plan. If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued.

H. Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning and Zoning Commission for access to the adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with County construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

I. Blocks shall not exceed 1,400 feet in length or be less than 400 feet in length.

J. Cul-de-sacs shall be no longer than 500 feet in length with a turnaround of not less than 100 feet in diameter.

K. The subdivision plat as submitted may indicate names for proposed streets. The Commission shall review all road names and consult the local postmaster prior to giving recommendation to the Council for approval. Names shall be sufficiently different in sound and spelling from other road names in the City and surrounding area so as not to cause confusion. A road which is (or is planned as) a continuation of an existing road shall bear the same name.

3. Utilities and Easements. Depending on the proposed number, type, and proximity of housing units and/or land uses, subdivisions may be required to connect with approved public systems. The amount of service supplied shall bear a direct relationship to the demand that the subdivision will create.

A. All utility facilities, including (but not limited to) gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and right-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the

Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

B. Easements centered on rear lot lines shall be provided for utilities (private and municipal) and such easements shall be at least 12 feet wide. Proper coordination shall be established between the subdivider or agent and the applicable utility companies for the establishment in adjoining properties. When topological or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 12 feet in width shall be provided along side lot lines, centered, with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

C. Fire hydrants may be required by the Council. Fire hydrants shall be located no more than 1,000 feet apart and within 500 feet of any structure and shall be approved by the Fire Chief. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.

4. Lots. The lot arrangement and design shall be such that lots will provide satisfactory and desirable site for buildings, and be properly related to topography, to the character of surrounding development and to existing requirements. All lots must conform to the minimum requirements of the zoning district for which it is located and the minimum requirements of the County Health Department for water supply and sewage disposal. Each lot shall abut on a street shown on the subdivision plat or on an existing publicly dedicated street. Double frontage and reverse frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. Side lines of lots shall be at approximately right angles or radial to the street lines.

5. Sidewalks. The Council may require sidewalks to facilitate pedestrian access from roads to schools, parks, playgrounds, common areas, or other nearby roads. Sidewalks through the block may be required where access is necessary to a point designated by the Council. Concrete curbs are required for all roads when sidewalks are required by these regulations or when required in the discretion of the City Public Works Supervisor and/or utilities foreman. Such walkways shall be required to have a median strip of grassed or landscaped area at least two feet wide separating them from adjacent curbs and shall be installed in accordance with Chapter 136 of this Code of Ordinances (Sidewalk Regulations).

6. Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the Public Works Supervisor and/or utilities foreman.

7. Drainage and Storm Water Management. The Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by a method approved by the City Public Works Supervisor and/or utilities foreman, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is

not carried across or around any intersection, or for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

A. Location. The applicant may be required by the City Public Works Supervisor and/or utilities foreman to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

B. Accessibility to Public Storm Sewers. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the City Public Works Supervisor and/or utilities foreman. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivision and be conducted by the Public Works Supervisor and/or utilities foreman. If a connection to a public storm sewer will be provided eventually, as determined by the City Public Works Supervisor and/or utilities foreman, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.

C. Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Public Works Supervisor and/or utilities foreman shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.

D. Effect on Downstream Drainage Areas. The City Public Works Supervisor and/or utilities foreman shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an exiting downstream drainage facility, the Public Works Supervisor and/or utilities foreman may withhold approval of the subdivision until provision has been made for the expansion of the exiting downstream drainage facility. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

E. Areas of Poor Drainage. Whenever a plat is submitted for an area that is subject to flooding, the City Public Works Supervisor and/or utilities foreman may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the

elevation of streets and lots at a minimum of 12 inches above the elevation of the 100-year floodplain. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone, nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by the Public Works Supervisor and/or utilities foreman. The Public Works Supervisor and/or utilities foreman may deny subdivision approval for areas of extremely poor drainage.

F. Floodplain Areas. The Council may, when it deems it necessary for the health, safety, or welfare of the present and future population of the City and surrounding area and for necessary conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the Council.

8. Dedication of Drainage Easements. When a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

A. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least 15 feet in width for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.

B. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

C. The applicant shall dedicate, either in fee or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the City Public Works Supervisor and/or utilities foreman.

D. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedures nor for computing the area requirement of any lot.

9. Parking Design, Landscaping and Construction Standards. Blocks intended for business or industrial use shall be designated specifically for such purposes with adequate space set aside for off-street parking space and delivery facilities.

10. Open Space. Planned unit developments and cluster developments shall be required to provide open space. Developed open space shall be designed to provide

active recreational facilities to serve the residents of the development. Undeveloped open space shall be designed to preserve important site amenities and environmentally sensitive areas.

A. Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the City Attorney ensuring that:

- (1) The open space area will not be further subdivided in the future;
- (2) The use of the open space will continue in perpetuity for the purpose specified;
- (3) Appropriate provisions will be made for the maintenance of the open space; and
- (4) Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public for a fee.

B. Open space ownership may include, but is not limited to, the following: City of New London (subject to acceptance by the City); other public jurisdictions or agencies (subject to their acceptance); quasi-public organizations (subject to their acceptance); homeowner, condominium, or cooperative associations or organizations; or shared, undivided interests by all property owners in a subdivision. If open space is to be owned and maintained by a homeowner or condominium association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for the preliminary approval. The provisions shall include, but are not necessarily limited to, the following:

- (1) The homeowners association must be established before the homes are sold;
- (2) Membership must be mandatory for each homebuyer and any successive buyer;
- (3) The open space restrictions must be permanent, not just for a period of years;
- (4) The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- (5) Homeowners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property if allowed in the master deed establishing the homeowners association; and
- (6) The association must be able to adjust the assessment to meet changed needs.

11. Preservation of Natural Features and Landscaping. Existing features that would add value to residential development or to the local government as a whole, such as trees, watercourses and falls, beaches, historic sites, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision or any change of grade of the land effected until approval of the preliminary plat has been granted. If the subdivider or agent intends to use landscaping, it shall be provided as part of the site plan and subdivision design. It

may include plant materials such as trees, shrubs, ground covers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture. The plan shall show existing and proposed plantings, and how existing plants are to be protected during construction. Topsoil moved during the course of construction shall be protected from storm water and wind erosion. In addition, all stumps, tree parts, litter, brush, weeds, excess or scrap building materials or other debris shall be removed from the site and disposed of in accordance with the law. No tree stumps, or portions of tree trunks or limbs shall be buried anywhere in the development. If trees and limbs are reduced to chips, they may be used as mulch in landscaped areas, subject to approval by the City Public Works Supervisor and/or the utilities foreman and the Iowa Department of Natural Resources. Landscaping of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than one foot vertically to three feet horizontally shall be planted with ground cover appropriate for the purpose and for soil conditions, water availability, and environment. Buffering may be used to minimize adverse impacts and may consist of fencing, rocks, evergreens, berms, boulders, mounds, or combinations thereof to achieve the same objectives. No buildings, structures, storage of materials, or parking shall be permitted within the buffer area; buffer areas shall be maintained and kept free of all debris, rubbish, and weeds.

175.23 POST-FILING PROCEDURES.

1. Improvement Guarantees. Improvement guarantees shall be provided to ensure the proper installation and maintenance of required street, utility, and other improvements. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the developer. Before the recording of a final subdivision plat, the City Council may require and shall accept in accordance with the standards adopted by ordinance the following guarantees:

- A. The furnishing of a performance guarantee in an amount not to exceed 120 percent of the cost of installation for improvements;
- B. Provision for a maintenance guarantee for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15 percent of the cost of the improvement.

The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Council by resolution. Upon substantial completion of all required improvements, the subdivider or agent shall notify the City Clerk in writing, by certified mail, of the completion or substantial completion of improvements, and shall send a copy to the City Public Works Supervisor and/or utilities foreman. The Public Works Supervisor and/or utilities foreman shall inspect all improvements of which such notice has been given and shall file a report, in writing, indicating either approval, partial approval, or rejection of such improvements with a statement of reason for any rejection. The notice from the subdivider or agent and report from the Public Works Supervisor and/or utilities foreman shall then be forwarded to the City Council for review and approval, partial approval, or rejection of the improvements based upon the report by the Public Works Supervisor and/or utilities foreman. The City Clerk shall then notify the subdivider or agent in writing, by certified mail, of the contents of the report by the Public Works Supervisor and/or the utilities foreman and Council decision not later than 35 days after the receipt of the notice from the subdivider/agent of the completion of the

improvements. Failure to send or notify the subdivider/agent within 35 days shall be deemed to constitute approval of the improvements, and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements. Where partial approval is granted, the subdivider/agent shall be released from all liability except for that portion of improvements not yet approved.

2. Provision of Improvement Guarantees. Performance and maintenance guarantees shall be provided by a variety of means including, but not limited to, the following:

A. Security Bond. The developer may obtain a security bond from a surety bonding company authorized to do business in the State.

B. Letter of Credit. The developer may provide an irrevocable letter of credit from a bank or other reputable institution.

C. Escrow Account. The developer shall deposit cash or other instruments readily convertible into cash at face value, either with the City or in escrow with a bank.

D. Property. The developer may provide as a guarantee land or other property.

E. Subdivision Improvement Guarantee. An applicant may provide as a guarantee a subdivision improvement agreement between the applicant, lender, and local government.

3. Issuing Zoning Permits. The Zoning Administrator shall not issue permits for new construction, reconstruction, and/or changes in use unless the parcel or tract of land for which the permit is requested is in compliance with these regulations and approved by the City Council. This includes the following requirements:

A. All water, sewer, and drainage systems installed, inspected and tested;

B. All curb and gutter installed;

C. A minimum of eight inches of road base in place and graded;

D. All lots within the subdivision rough graded so that weeds and other vegetation can be maintained by the contractor.

175.24 VARIANCES AND APPEALS.

1. Variances and Waivers. Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may recommend to the Council variances, exceptions, and waiver of conditions to these regulations so that the public interest is secured and the Comprehensive Plan is upheld.

A. A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the developer at the time when the preliminary plat is filed for the consideration of the Commission. The petition shall state fully the grounds for the request and all of the facts relied upon by the petitioner. The request for an exception shall include a rationale for granting the exception based upon the general purpose and intent of the provisions of this chapter and any undue hardships caused by the literal enforcement of one or more provisions of this chapter.

B. The Council, upon recommendation of the Commission, may waive specific subdivision and site plan requirements where there is no extensive construction or improvements being sought. The waiver may be granted only upon a resolution by the Council finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of plat approval, and that the existing facilities do not require upgraded or additional site improvements.

2. Appeals. All appeals of decisions made by the Commission shall be referred to the Council for review. When application is made to the Council for approval of a subdivision plat, the applicant or a second governing body, which also has jurisdiction for review, may be aggrieved by any of the following:

A. The requirements imposed by a governing body as a condition of approval;

B. The governing body exceeding the time for review established by ordinance;

C. The denial of the application;

D. Failure of the governing body to approve or reject a subdivision plat within 60 days from the date of application for final approval. If the plat is disapproved by the governing body, such disapproval shall state how the proposed plat is objectionable. The applicant has the right to appeal, within 20 days, the failure of the governing body to issue final approval of the plat as provided in this section.

The applicant or the aggrieved governing body has the right to appeal to the District Court within 20 days after the date of the denial of the application or the date of the receipt by the applicant of the requirements for approval of the subdivision. Notice of appeal shall be served on the governing body in the manner provided for the service of original notice pursuant to the rules of civil procedure.

CODE OF ORDINANCES

CITY OF NEW LONDON, IOWA

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