

**CODE OF ORDINANCES**  
**CITY OF DURANT, IOWA**

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## GENERAL PROVISIONS

### CHAPTER 1 — CODE OF ORDINANCES

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1-1 TITLE. This code of ordinances shall be known and may be cited as the “Code of Ordinances”, or “City Code” of the City of Durant, Iowa.

1-2 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City, are defined in the Code of Iowa and shall be interpreted as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "Administrator" means the City Administrator.
2. “Alley” means public right of way other than a street supplying secondary means of access to abutting property.
3. "City" means the City of Durant, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
4. “Clerk” means City Clerk
5. “City Operations Officer/Clerk” means City Officer responsible for Administration and City Clerk duties as defined in section 3-5.
6. “Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;

7. "Council" means the City Council of the City. All its members or all City Council persons mean the total number of City Council persons provided by the City charter under the general laws of the state;
8. "County" means the County of Cedar, Iowa; unless otherwise specified as Muscatine or Scott County.
9. "Easement" means a right which one landowner has with respect to the lands of another—either the right to do something on another's land or the right to prevent the other owner from using their land in a particular way.
10. "Fiscal Year" means July 1 to June 30;
11. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be publically known;
12. "May" confers a power;
13. "Measure" means ordinance, amendment, resolution or motion.
14. "Month" means a calendar month;
15. "Must" states a requirement;
16. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
17. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
18. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
19. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of building or land;
20. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them;
21. "Personal property" includes money, goods, things in action and evidences of debt;
22. "Preceding" and "following" mean next before and next after, respectively;
23. "Property" includes real and personal property;

24. "Real property" includes lands, tenements and all rights thereto and interests therein;
25. "Shall" imposes a duty;
26. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
27. "State" means the State of Iowa;
28. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
29. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
30. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
31. "Written" includes any printed material;
32. "Year" means a calendar year;
33. All words and phrases shall be understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be understood according to such peculiar and appropriate meaning;
34. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be understood as to include all such acts performed by an authorized agent.

1-3 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City:

1. Gender. Any gender includes the other gender;
2. Singular and Plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;
4. Use of Words and Phrases. Words and phrases not specifically defined shall be understood according to the content and approved usage of the language.

1-4 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-5 CONSTRUCTION. The provisions of this Code are to be interpreted with a view to affect its objects and to promote justice.

1-6 AMENDMENT. All Ordinances of the City Council passed at a later time shall be in the form of an addition or amendment to the Durant Municipal Code constituting this Municipal Code, and shall include proper references to Chapter and section to maintain the codification of the Ordinances. (Code of Iowa, Sec. 380.2)

1-7 CATCHLINES AND NOTES. The catch lines 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.

1-8 SEVERABILITY. If any section, provision or part of the City Code is judged invalid or unconstitutional, such judgment will not affect the validity of the City Code as a whole or any section provision, or part thereof not judged invalid or unconstitutional.

1-9 ALTERING CODE. It shall be unlawful for any unauthorized person to change, amend, delete or alter any part or portion of the Code of Ordinances. Any or All Ordinances of the City of Durant may be updated, or changed by authorization of the City Council of the City of Durant after proper notice and public hearing per Iowa Code requirements.



## GENERAL PROVISIONS

### CHAPTER 2 CITY POWERS

- 2-1 City Powers
- 2-2 Personal Injuries
- 2-3 Right of Entry

2-1 CITY POWERS. A city may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents. This grant of home rule powers does not include the power to enact private or civil law governing civil relationships, except as incident to an exercise of an independent city power.

(Code of Iowa, Sec. 364.1)

2-2 PERSONAL INJURIES. When action is brought against a 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. A 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 364.14)

2-3 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

## GENERAL PROVISIONS

### CHAPTER 3 PENALTY

- 3-1 General Penalty
- 3-2 Municipal Infraction
- 3-3 Penalties
- 3-4 Civil Citations
- 3-5 Criminal Penalties

3-1 GENERAL PENALTY. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Ordinances of the City of Durant is guilty of a misdemeanor. Any person convicted of a misdemeanor under the Ordinances of the City of Durant shall be punished by a fine of not more than five hundred dollars, or by imprisonment not to exceed thirty days. (Code of Iowa, Sec. 364.3(2))

3-2 MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

1. Definitions.

- a. Municipal Infraction. Except for those violations specifically provided as a felony, an aggravated misdemeanor, or a serious misdemeanor under State law or if the violation is a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the commission of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Durant, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein. Such acts shall include, but not be limited to, all actions or omissions defined as nuisances in the Durant Municipal Code.
- b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Durant. The City Administrator is hereby authorized to designate employees or officials authorized to enforce said Code. The Mayor, City Administrator, Chief of Police, and any sworn Police Officer of the City of Durant are hereby specifically authorized to enforce the provisions of this Chapter.
- c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

2. Violations, penalties, and alternative relief.

- a. A municipal infraction is punishable by a civil penalty as provided in this section, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code. A municipal infraction shall be punishable under the procedures set forth in Section 364.22, subsections (5) through (12), Code of Iowa.

3-3 PENALTIES:

a. Penalties as follows:

First Offense -- Not more than seven hundred fifty dollars (\$750.00).

Second Offense -- Not more than one thousand dollars (\$1000.00).

All other Repeat Offenses--Not more than one thousand dollars (\$1000.00).

- b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
- c. Seeking a civil penalty as authorized in this Chapter does not prohibit the City from seeking alternative relief from the court in the same action, nor does the seeking of a civil penalty prohibit the City from filing criminal charges for similar violations where provided by the Durant Municipal Code or the Code of Iowa. Such alternative relief may include, but is not limited to, an order for abatement or prohibition of an act.

3-4. CIVIL CITATIONS

- a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.
- b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.
- c. The original of the citation shall be sent to the Clerk of the District Court, Cedar County Courthouse, Tipton, Iowa (or the Muscatine County Clerk or Scott County Clerk if the offense occurs in Muscatine County or Scott County, respectively).
- d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
- (1) The name and address of the defendant.
  - (2) The 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 alternative relief sought, or both.
  - (5) The manner, location, and time in which the penalty may be paid.
  - (6) The time and place of court appearance.
  - (7) The penalty for failure to appear in court
  - (8) The legal description of the affected real property, if applicable.

- 3-5 CRIMINAL PENALTIES. This Chapter does not prohibit a peace officer from issuing a criminal citation for a violation of the City Code or City regulations if criminal penalties are also provided for the violation, nor does it prohibit or limit the authority of the City to enforce the provisions of the City Code by criminal sanctions or other lawful means. (Code of Iowa, Sec. 364.22(11))

(Ordinance D-14A, Passed October 13, 1998)

## GENERAL PROVISIONS

### CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

- 4-1 Purpose and Intent
- 4-2 General
- 4-3 Form of Notice of Hearing
- 4-4 Subpoenas
- 4-5 Conduct of Hearing
- 4-6 Method and Form of Decision

#### 4-1 PURPOSE AND INTENT.

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.
2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

#### 4-2 GENERAL.

1. Record. A record of the entire proceedings shall be made by any means of permanent recording determined to be appropriate by the City Council.
2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.
3. Continuances. The City Council may grant continuances for good cause shown.
4. Oaths, certification. The City Council or any member thereof has the power to administer oaths and affirmations.
5. Reasonable dispatch. The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

#### 4-3 FORM OF NOTICE OF HEARING.

The notice to parties shall be substantially in the following form, but may include other information:

"You are hereby notified that an evidentiary hearing will be held before the Durant City

Council at \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefore with the City Clerk."

4-4 SUBPOENAS. Filing of affidavit. The City Council may issue a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the City Council or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefore which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in the witness's possession or under the witness's control. A subpoena need not be issued when the affidavit is defective in any particular.

4-5 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
2. Oral evidence. Oral evidence shall be taken only on oath or affirmation.
3. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
4. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
5. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.
6. Rights of parties. Each party shall have these rights, among others:
  - a. To call and examine witnesses on any matter relevant to the issues of the hearing;
  - b. To introduce documentary and physical evidence;
  - c. To cross-examine opposing witnesses on any matter relevant to the hearing;
  - d. To impeach any witness regardless of which party first called the witness to testify;
  - e. To rebut the evidence against the party; and
  - f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

- a. What may be noticed in reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the City or its departments and Ordinances of the City.
- b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
- c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.

8. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

- a. Parties shall be given notice of such inspection before the inspection is made;
- b. The parties are given an opportunity to be present during the inspection; and
- c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn there from. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

4-6 METHOD AND FORM OF DECISION.

1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.
2. Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.
3. Effective date of decision. The effective date of the decision shall be stated therein.

## POLICY AND ADMINISTRATION

### CHAPTER 5 CITY CHARTER

- 5-1 Purpose
- 5-2 Charter
- 5-3 Form of Government
- 5-4 Powers and Duties
- 5-5 Number and Term of City Council
- 5-6 Term of Mayor
- 5-7 Nominations by Petition
- 5-8 Copies on File
- 5-9 Effective

5-1 PURPOSE. The purpose of this Ordinance is to provide a charter embodying the form of government existing on January 1, 1976 by providing for the nomination of candidates for elective City offices pursuant to the provisions of Chapter 45 of the Code of Iowa.

5-2 CHARTER. This Chapter may be cited as the Charter of the City of Durant, Iowa.

5-3 FORM OF GOVERNMENT. The form of government of the City of Durant, Iowa, is the Mayor-Council form of government. (Code of Iowa, Sec. 372.4)

5-4 POWERS AND DUTIES. The City 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 of Durant, Iowa.

5-5 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five (5) City Council members elected at large, for terms of four (4) years.

5-6 TERM OF MAYOR. The Mayor is elected for a term of two (2) years.  
(Code of Iowa, Sec. 372.4, 376.2)

5-7 NOMINATIONS BY PETITION. That pursuant to Section 376.3 of the Iowa Code, all candidates for elective City offices shall hereafter be nominated as provided by Chapter 45 of the Code of Iowa.

5-8 COPIES ON FILE. An official copy of the charter is on file with the official records of the City Clerk and with the Secretary of State of Iowa. Copies of the charter are available at the City Clerk's office for public inspection. (Code of Iowa, Sec. 372.1)

5-9 WHEN EFFECTIVE. This Ordinance is in effect after its final passage, approval and publication as required by law. (Ordinance A-1, Passed January 3, 1979)

## **POLICY AND ADMINISTRATION**

### **CHAPTER 6 MUNICIPAL OFFICERS**

- 6-1 Purpose
- 6-2 Creation of Appointive Officers
- 6-3 Appointment of Officers
- 6-4 Terms of Appointive Officers
- 6-5 Vacancies in Offices
- 6-6 Bonds Required
- 6-7 Surety
- 6-8 Bonds Filed

6-1 **PURPOSE.** The purpose of this Ordinance is to provide for the appointment and qualification, including the posting of proper bond, and the filling of vacancies, of the appointed municipal officers of the City.

6-2 **CREATION OF APPOINTIVE OFFICERS.** There are hereby created the following appointive officers: City Administrator, City Clerk, Police Chief, Attorney, and Treasurer.

6-3 **APPOINTMENT OF OFFICERS.** The Mayor shall appoint a Mayor Pro Tempore and shall appoint and may dismiss the Police Chief with the consent of a majority of the City Council. All other officers shall be appointed or selected by the City Council unless otherwise provided by law or Ordinance.

6-4 **TERMS OF APPOINTIVE OFFICERS.** The terms of all appointive officers that are not otherwise fixed by law or Ordinance shall be two (2) years.

6-5 **VACANCIES IN OFFICES.** A vacancy in an appointive office shall be filled in the same manner as the original appointment. A vacancy in an elective office shall be filled by a majority vote of all members of the City Council, unless filled by election in accordance with State law.

6-6 **BONDS REQUIRED.** The City Council will provide a blanket surety bond covering all City officers and employees required by law or Ordinance to be bonded.

(Code of Iowa, Sec. 64.13)

6-7 **SURETY.** Any association or corporation which makes a business of insuring the fidelity of others and which has authority to do such business within Iowa shall be accepted as surety on any of the bonds.

6-8 **BONDS FILED.** All bonds when duly executed shall be filed at City Hall.  
(Code of Iowa, Sec. 64.2)



## **POLICY AND ADMINISTRATION**

### **CHAPTER 7 POWERS AND DUTIES OF MUNICIPAL OFFICERS**

- 7-1 General Duties
- 7-2 Books and Records
- 7-3 Powers and Duties of the Mayor
- 7-4 Powers and Duties of the City Administrator
- 7-5 Powers and Duties of the City Operations Officer/Clerk
- 7-6 Duties of the Treasurer
- 7-7 Powers and Duties of the Police Chief
- 7-8 Duties of the City Attorney
- 7-9 Duties of Other City Employees

7-1 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Ordinance, or as otherwise directed by the City Council unless contrary to State law or City charter.

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

7-2 BOOKS AND RECORDS. All books and records required to be kept by law or Ordinance shall be open to inspection by the public upon request.

(Code of Iowa, Sec. 22.1, 22.2, and 22.7)

7-3 POWERS AND DUTIES OF THE MAYOR.

1. The duties of the Mayor shall be as follows:

- a. The Mayor is the chief executive officer of the City and presiding officer of the City Council. Except for the supervisory duties which have been delegated by law to a City Administrator, the Mayor shall supervise all City officers and departments. (Code of Iowa, Sec. 372.14(1) and (3))
- b. The Mayor may 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))
- c. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ or discharge. The Mayor pro tempore shall have the right to vote as a member of the

City Council. (Code of Iowa, Sec. 372.14(3))

- d. The Mayor pro tem is the vice president of the City Council. When the Mayor is absent or unable to act, the Mayor pro tem shall perform the Mayor's duties, except appointing, employing, or discharging officers or employees without the approval of the City Council. Official actions when the Mayor is absent or unable to act are legal and binding to the same extent as if done by the Mayor. The Mayor pro tem retains all of the powers of a City Council member.
- e. The Mayor shall 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 or Ordinance.
- f. The Mayor shall, whenever authorized by the City Council, sign all documents on behalf of the City.
- g. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.
- h. Upon authorization of the City Council, the Mayor shall revoke permits or licenses granted by the City Council when their terms, the Ordinances of the City, or the laws of the State of Iowa are violated by holders of said permits or licenses.
- i. The Mayor will direct the City Administrator and Police Chief to abate nuisances per nuisance Ordinance.
- j. The Mayor may sign, veto, or take no action on an Ordinance, amendment or resolution passed by the City Council. If the Mayor vetoes a measure, the Mayor must explain in writing the reason for such veto to the City Council. The City Council may re-pass a measure over the Mayor's veto by a two-thirds majority of the City Council members, if said action is taken within thirty days of the veto.

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

7-4 POWERS AND DUTIES OF THE CITY ADMINISTRATOR. The purpose of this section is to provide for an Administrator for the City.

1. Appointment. The Administrator shall be appointed by a majority vote of the City Council.
2. Compensation. The Administrator shall receive such annual salary as the City Council determines by contract.
3. Duties. The duties of the Administrator shall be as follows:
  - a. To supervise enforcement and execution of all City Ordinances;
  - b. To attend all meetings of the City Council and other City commissions and boards, unless excused by the Mayor; City Clerk
  - c. To recommend to the City Council such measures as he or she may deem necessary or expedient for the good government and welfare of the City;

- d. To supervise the performance of all contracts for work to be done for and materials to be furnished to the City;
- e. To supervise the sewage system and plant, the water system and water treatment plants, the upkeep and repair of City streets and the garbage collections;
- f. To supervise the construction, improvement, repair, maintenance and management of all property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements;
- g. To purchase all materials and supplies, and to make certain that such materials and supplies are received and are of the quality called for by the contract;
- h. To employ, supervise or reclassify all employees of the City, except police department personnel, subject to the provisions of the Veteran's Preference Law and the Civil Service Law (Chapter 35C and 400 of the Code of Iowa).
- i. To discharge any City employee except police department personnel, but only upon majority vote of the City Council;
- j. To appoint or employ persons to fill all places for which no other mode of appointment or employment is provided;
- k. To summarily and without notice investigate the affairs and conduct of any department, agency, officer or employee under his or her supervision;
- l. To perform all other duties delegated to him or her by the City Council;
- m. To nominate for City Council appointment City employees to perform specific duties of the Administrator when the Administrator is absent, and to perform such other duties as assigned by the Administrator;
- n. To administer oaths of office as prescribed by law in the absence of the City Clerk.
- o. To have direct financial management over all City departments;
- p. To manage City budgets and supervise City expenditures in all City departments, except that the Administrator may delegate such authority as he or she deems appropriate to the City Clerk;
- q. To formulate policy with the approval of the City Council, within the framework of the Ordinances of the City of Durant and the laws of the State of Iowa;
- r. To serve as a liaison between the City Council and independent commissions such as economic development corporations, other public bodies, other City departments, and similar institutions, and to investigate any potential joint arrangements with such institutions and make recommendations for such arrangements as are mutually acceptable to the City Council;
- s. To assist the City Council and the Planning and Zoning Commission in the carrying out of the comprehensive plan of the City of Durant and to assist in all other forms of planning within the government of the City of Durant;
- t. To act for the City in the exercise and execution of all policies and programs when the City is involved on a joint basis with any other governmental subdivision, including any subdivision of the State of Iowa or the United States of America;
- u. To maintain and keep an updated inventory of all properties of Durant.

- v. To keep apprised of, apply for, and administer any grants and other funding sources that may be available to the City of Durant.
4. The City Administrator may terminate his or her employment upon thirty (30) days written notice to the City, subject to the terms of his or her contract; and the Administrator may be discharged by the City upon a majority vote of the City Council, subject to the terms of his or her contract.

#### 7-5 POWERS AND DUTIES OF THE CITY OPERATIONS OFFICER/CLERK.

1. The duties of the City Operations Officer/Clerk shall be as follows:

a. The City Operations Officer/Clerk shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund. The statement shall further include list of all claims allowed, a summary of all receipts and the gross amount of the claims. (Code of Iowa, Sec. 372.13(4) and (6))

b. The City Operations Officer/Clerk shall record each measure taken by the city Council, stating where applicable whether the Mayor signed, vetoed, or took no action on the measure and what action the City Council made upon the Mayor's veto. (Code of Iowa, Sec. 380.7(1))

c. The City Operations Officer/Clerk shall publish either the entire text or a summary of all Ordinances and amendments enacted by the City. "Summary" shall mean a narrative description of the terms and conditions setting forth the main points in a manner calculated to inform the public in a clear and understandable manner the meaning of the Ordinance and which shall provide the public with sufficient notice to conform to the desired conduct accurate and intelligible abstract or synopsis of the essential elements, a statement that the description is a summary, the location and the normal business hours of the office where the Ordinance may be inspected, when it becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in Ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the Ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms. The City Operations Officer/Clerk shall authenticate all such measures except motions with said City Operations Officer/Clerk's signature, certifying the time and place of publication when required. (Code of Iowa, Sec. 380.7(1) and (2))

d. The City Operations Officer/Clerk shall maintain copies of all effective City Ordinances and codes for public use. (Code of Iowa, Sec. 380.7(4))

e. The City Operations Officer/Clerk shall publish notice of public hearings, elections and other official actions as required by State and City law. (Code of Iowa, Sec. 362.3)

f. The City Operations Officer/Clerk shall be the chief accounting officer of the City.

g. The City Operations Officer/Clerk shall keep an accurate record for all money or securities received on behalf of the City and specify date, from whom, and for what purposes received.

h. The City Operations Officer/Clerk shall keep a separate account of all money received by the City Clerk for special assessments.

i. The City Operations Officer/Clerk shall report monthly to the City Council on each municipal account as of the end of the previous month.

j. The City Operations Officer/Clerk shall, upon receipt of monies to be held in the City Operations Officer/Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.

k. The City Operations Officer/Clerk shall keep a check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each check is issued.

l. The City Operations Officer/Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefore.

m. The City Operations Officer/Clerk shall issue all licenses and permits approved by the City Council, and number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

n. The City Operations Officer/Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.

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

o. The City Operations Officer/Clerk shall inform all persons appointed by the Mayor or City Council to offices in the municipal government of their position and the time at which they shall assume the duties of their office.

p. The City Operations Officer/Clerk shall preserve a complete record of every City election, regular or special and perform duties required by law or Ordinance in regard to elections. (Code of Iowa, Sec. 376.4)

q. The City Operations Officer/Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the City Operations Officer/Clerk's control when it may be necessary to such officer in the discharge of the City Operations Officer/Clerk's duty. The City Operations Officer/Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The City Operations Officer/Clerk shall, under the direction of the mayor or other authorized officer, affix, the seal of the corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal. (Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)

r. The City Operations Officer/Clerk shall certify all measures establishing any zoning district, building lines, or fire limits, and a plat showing each district, lines or limits to the recorder of the county containing the affected parts of the City. (Code of Iowa, Sec. 380.11)

s. Annually, the City Operations Officer/Clerk shall prepare and submit to the City council an itemized budget of revenues and expenditures. (Code of Iowa, Sec. 384.16)

t. Following City Council adoption for the budget, the City Operations Officer/Clerk shall certify the necessary tax levy for the following year to the County Auditor. (Code of Iowa, Sec. 384.16(5))

u. The City Operations Officer/Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law. (Code of Iowa, Sec. 384.20)

v. The City Operations Officer/Clerk shall prepare the annual public report, publish it and send a certified copy to the State Auditor and other State officers as required by law. (Code of Iowa, Sec. 384.22)

w. The City Operations Officer/Clerk shall keep the record of each fund separate. (Code of Iowa, Sec. 372.13(4) and 384.85)

x. The City Operations Officer/Clerk shall maintain all City records as required by law. (Code of Iowa, Sec. 372.13(3) and (5))

y. The City Operations Officer/Clerk shall supervise enforcement and execution of

all City Ordinances.

z. The City Operations Officer/Clerk shall recommend to the City Council such measures as he or she may deem necessary or expedient for the good government and welfare of the City.

aa. The City Operations Officer/Clerk shall oversee the supervision of the performance of all contracts for work to be done for and materials to be furnished to the City.

bb. The City Operations Officer/Clerk shall oversee the supervision of the sewage system and plant, the water system and water treatment plants, the upkeep and repair of City streets and the garbage collections.

cc. The City Operations Officer/Clerk shall oversee the supervisions of the construction, improvement, repair, maintenance and management of all property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.

dd. The City Operations Officer/Clerk shall oversee the supervision for purchases of all materials and supplies, and to make certain that such materials and supplies are received and are of the quality called for by the contract.

ee. The City Operations Officer/Clerk shall perform all other duties delegated to him or her by the City Council, including but not limited to the supervision of all city employees.

ff. The City Operations Officer/Clerk shall nominate for City Council appointment City employees to perform specific duties of the City Operations Officer/Clerk when absent for more than three days, and to perform such other duties as assigned by the City Council.

gg. The City Operations Officer/Clerk shall have direct financial management over all City departments.

hh. The City Operations Officer/Clerk shall manage City budgets and supervise City expenditures in all City departments, except that the City Council may delegate such authority they deem appropriate to the City Operations Officer/Clerk or Department Supervisors.

ii. The City Operations Officer/Clerk shall assist the City Council and the Planning and Zoning Commission in the carrying out of the comprehensive plan of the City of Durant and to assist in all other forms of planning within the government of the City of Durant.

jj. The City Operations Officer/Clerk shall act for the City in the exercise and execution of all policies and programs when the City is involved on a joint basis with any other governmental subdivision, including any subdivision of the State of Iowa or the United States of America.

kk. The City Operations Officer/Clerk shall maintain and keep an updated inventory of all properties of the City of Durant.

ll. The City Operations Officer/Clerk shall keep apprised of, apply for, and administer any grants and other funding sources that may be available to the City of Durant.

mm. The City Operations Officer/Clerk shall perform all duties and exercise all powers granted to the Zoning Administrator under the provisions of the Durant Zoning Ordinance and the Durant Subdivision Ordinance.

Passed and approved 27th day of February, 2012.

#### 7-6 DUTIES OF THE TREASURER.

1. Duties. The Treasurer shall perform such duties as may be directed by the City Council, the Ordinances, or the laws of the State of Iowa, and shall transmit to his or her successor in office, all books, papers, records, documents, and property pertaining to the office. The Treasurer shall serve as Bond Registrar for the City of Durant.  
(Code of Iowa, Sec. 372.13(4))  
(Ordinance A-6, Passed May 28, 1991)

#### 7-7 POWERS AND DUTIES OF THE POLICE CHIEF.

1. The duties of the Police Chief shall be as follows:  
(Code of Iowa, Sec. 372.13(4))
  - a. The Police Chief shall wear upon the Police Chief's outer garment and in plain view an appropriate badge engraved with the name of the Police Chief's office, and such uniform as may be specified by the City Council.
  - b. The Police Chief shall assist the City Attorney in prosecuting any persons for the violation of an Ordinance by gathering all the facts and circumstances surrounding the case.
  - c. The Police Chief shall be sergeant-at-arms of the City Council chamber when requested by the City Council.



- d. The Police Chief shall report to the City Council upon activities as Police Chief when requested.
- e. The Police Chief shall protect the rights of persons and property, preserve order at all public gatherings, prevent and abate nuisances, and protect persons against every manner of unlawful disorder and offense.
- f. The Police Chief shall make arrangements to convey any persons requiring detention to the County jail as provided by law and agreements with the County.
- g. The Police Chief shall execute all lawful orders of any board or commission established by the City Council.
- h. The Police Chief shall be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles and equipment for the department.
- i. The Police Chief may appoint one or more assistant Police Chiefs, who may perform the Police Chief's duties and who shall be members of the police force.
- j. The Police Chief shall make such rules, not in conflict with the provisions of this Ordinance, as needed for the detailed operation of the police department, subject to the approval of the City Council. Such rules shall cover off-duty and on-duty conduct and activity of members, the wearing and care of the uniform, the use and practice with side arms and other police weapons, the use of police radio and other communications, attendance at training meetings and such other matters as the Police Chief determines to be necessary for the operation of the police department. The Police Chief shall see that the discipline and conduct of the department conforms to rules of the department. In the event of an emergency the Police Chief may make temporary rules for the protection of the system until due consideration by the City Council may be had.
- k. The Police Chief shall, when requested, aid other municipal officers in the execution of their official duties.
- l. The Police Chief shall report all motor vehicle accidents the police department investigates in the regular course of duty to the Iowa Department of Public Safety as provided by law.
- m. The Police Chief shall keep a record of all arrests made in the City by police officers. The Police Chief shall record whether said arrest was made under provisions of the laws of the State of Iowa or Ordinances of the City. The record shall show the offense for which arrest was made, who made the arrest, and the disposition made of the charge.
- n. At least every year the Police Chief shall review and determine the current status of all Iowa arrests reported, which are at least one year old with no disposition data. Any Iowa arrest recorded within a computer data storage system which has no disposition data after four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.
- o. The Police Chief shall restrain and prevent sheep, swine, horses, cattle, fowl, dogs, cats and other animals from running at large within the limits of the corporation.
- p. The Police Chief shall reside in the City of Durant while full-time police officers employed by the City of Durant, Iowa shall reside within a 25 mile radius of the Police Department.

7-8 POWERS AND DUTIES OF THE CITY ATTORNEY.

1. The duties of the City Attorney shall be as follows:

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

- a. The City Attorney shall be so situated in a convenient location to maintain necessary coordination with the general governmental activities of the municipality.
- b. The City Attorney shall, attend upon request, regular meetings of the City Council and attend special meetings of the City Council upon request.
- c. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.
- d. The City Attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defined by the City Attorney accompanied by all proceedings relating to said actions.
- e. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.
- f. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.
- g. 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 City Council.
- h. The City Attorney shall not appear on behalf of any municipal office or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.
- i. 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.
- j. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.
- k. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.
- l. The City Attorney shall, upon request, make an annual report in writing to the City Council prior to the tenth day of the first month of every year, which report shall contain a record of every legal matter considered by the City Attorney during the course of the year, the disposition made of all legal matters considered, and recommendations concerning any matters pending which may interest the City.

7-9 DUTIES OF OTHER CITY EMPLOYEES. The duties of City employees shall be established by the City Administrator with the approval of the City Council, and incorporated into the City's Personnel Handbook.

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

**POLICY AND ADMINISTRATION**

**CHAPTER 8 SALARIES OF MUNICIPAL OFFICERS**

- 8-1 City Council Member
- 8-2 Mayor
- 8-3 Other Officers

8-1 CITY COUNCIL MEMBER. The salaries of each City Council member shall be \$1,200.00 per annum and paid quarterly.

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

8-2 MAYOR. The Mayor shall receive an annual salary of \$2,400.00 per annum and paid quarterly.

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

8-3 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.

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

(Ordinance A-4-A, Passed September 26, 2000)

## POLICY AND ADMINISTRATION

### CHAPTER 9 CITY FINANCE

9-1	Budget Adoption
9-2	Budget Amendment
9-3	Budget Protest
9-4	Accounts and Programs
9-5	Annual Report
9-6	City Council Transfers
9-7	Administrative Transfers
9-8	Budget Officer
9-9	Expenditures
9-10	Authorizations to Expend
9-11	Accounting
9-12	Budget Accounts
9-13	Contingency Accounts

9-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes as follows:

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:
  - a. Expenditures for each program.
  - b. Income from sources other than property taxation.
  - c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.
2. The budget shall show comparisons between the estimated expenditures in each program in the following year and the actual expenditures in each program during the two preceding years. Wherever practicable, a budget shall show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.
3. Not less than ten nor more than twenty days before the date that the budget must be certified to the County Auditor, the City Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and City Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.
4. The City Council shall set a time and place for public hearing on the budget before the

final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the City Clerk shall certify the necessary tax levy for the following 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, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

9-2 BUDGET AMENDMENT. The City budget as finally adopted for the following fiscal year becomes effective the first of July and constitutes the City appropriation for each program and purpose specified therein until amended. The City budget for the current fiscal year may be amended for any of the following purposes: (Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.
2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.
3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.
4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, and is subject to protest as provided in Section 2-5-3 of this Chapter, except that the City Finance Committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

9-3 BUDGET PROTEST. Within a period of ten days after the final date that the budget or amended budget may be certified to the County Auditor, persons affected by the budget may file a written protest with the County Auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the City, but not less than ten persons, and the number need not be more than one hundred persons. (Code of Iowa, Sec. 384.19)

9-4 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget. The City shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any City purpose, by any City officer, employee, or other person, and which show the receipt, use, and disposition of all City property. Public monies may not be expended or encumbered except under an annual or continuing appropriation. (Code of Iowa, Sec. 384.20)

9-5 ANNUAL REPORT. Not later than the first of December of each year the City shall publish 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 this report shall be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

9-6 CITY COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council, or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation, which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the City Clerk, and where applicable, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law.

(IAC, Sec. 545.2.4(384,388))

9-7 ADMINISTRATIVE TRANSFERS. The City Clerk shall have power to make transfers within a single activity between objects of expenditures within activities without prior City Council approval. The City Clerk shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed 10% at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than the original appropriation, it shall be presented to the City Council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the City Council. (IAC, Sec. 545.2.4(384,388))

9-8 BUDGET OFFICER. The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Administrator. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

9-9 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made following the procedures set by the City Council in the Employee Handbook.

9-10 AUTHORIZATIONS TO EXPEND. All purchase orders other than those excepted herein shall be authorized by the City budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other City Council approval. The City Clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase order may be issued only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated the City Clerk shall not issue a purchase order until a budget amendment to transfer of appropriation is made in accordance with power delegated by City Council and within the limits set by law and the City Council. The City Clerk shall draw a check only upon an invoice received, or progress billing for a public improvement, supported by a purchase order or other certification indicating the material has been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

9-11 ACCOUNTING. The City Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and checks written, which receipts and checks shall be pre-numbered, in accordance with modern, accepted methods, and the requirement of the state. The City Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Checks shall be signed by any two of the following persons: Mayor, City Clerk, Treasurer or Deputy Clerk.

(Code of Iowa, Sec. 384.20)

9-12 BUDGET ACCOUNTS. The City Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)



## COMMUNITY PROTECTION

### CHAPTER 10 PUBLIC OFFENSES

10-1	Violations of Chapter
10-2	Public Peace
10-3	Public Morals
10-4	Streets
10-5	Public Safety and Health
10-6	Public Property
10-7	Exemptions
10-8	Violations - Penalty

10-1 VIOLATIONS OF CHAPTER. Commission of any of the acts named in the following sections by any person shall constitute a violation of this Chapter.

10-2 PUBLIC PEACE. It shall be unlawful for any person to do any of the following:

1. Engage in fighting or violent behavior or invite or defy another person to fight, 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. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

3. Willfully permit upon any premises owned, occupied, possessed or controlled by such person any unusually loud or excessive noise in such a manner calculated to provoke a breach of the peace of others, or the public quiet of the neighborhood.

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

4. Direct abusive language 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))

5. Without lawful authority or order 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))

6. Without authority, obstruct any street, sidewalk, highway or other public way.

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

7. Without authority, solicit contributions, distribute literature, or otherwise peddle or sell goods and services within the traveled portion of any roadway.

(Code of Iowa, Sec. 364.12(2)(a))

10-3 PUBLIC MORALS. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to another or to urinate or defecate in the presence of or in view of another, if the person knows or reasonably should know that such behavior would be offensive to a reasonable person.

10-4 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface or carry away from any highway, street, alley, avenue or bridge 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 highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

2. Obstructing or defacing streets. No person shall obstruct, deface, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without permission from the City.

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly.

(Code of Iowa, Sec. 364.12(2)(b and e))

4. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

10-5 PUBLIC SAFETY AND HEALTH.

1. Expecting. No person shall expectorate on the ground or on the floor of any structure within the City limits.

(Code of Iowa, Sec. 364.1)

2. Putting glass, etc., on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, or any other debris, or any other substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife.
4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.
5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.
6. Discharging firearms and fireworks.  
(Code of Iowa, Sec. 727.2)
  - a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms as defined by the Code of Iowa or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive or offensive weapon.
  - b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.
  - c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.
  - d. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.
  - e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

7. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.  
(Code of Iowa, Sec. 727.3)
8. Impersonating an officer. No person shall falsely represent them self or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.  
(Code of Iowa, Sec. 718.2)
9. Harassment of city employees.
  - a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.
  - b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of his or her family during the course of, or as a result of, the performance of any official duty by said City employee.
10. Antenna and radio wires. No person shall allow, locate or maintain any antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.
11. Barbed wire. No person shall install, allow to be installed or use barbed wire without the consent of the City Council.  
(Code of Iowa, Sec. 364.1)

10-6 PUBLIC PROPERTY.

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the Mayor.
2. Injuring new pavement. No person shall injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.  
(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or injure any property or equipment in playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting. (Code of Iowa, Sec. 364.12(2))
4. Injury to public library books or property. No person shall willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.
5. Defacing or destroying proclamations or notices. No person shall intentionally 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 of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of 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)
6. Injury to gravestones or property in cemetery. No person shall willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery. (Code of Iowa, Sec. 716.1)
7. Injury to fire apparatus. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishments of fires.
8. Injury to roads, railways, and other utilities. No person shall maliciously injure, e or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or maliciously cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, or telephone system; or break down and destroy or injure and deface any electric light, or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing. (Code of Iowa, Sec. 716.1)

9. Tapping telephone wires. No person shall wrongfully or unlawfully tap or connect a wire with the telephone wires of any person, company or association engaged in the transmission of messages on telephone or telegraph lines.

(Code of Iowa, Sec. 727.8)

10. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.

(Code of Iowa, Sec. 716.1)

11. Loud radios prohibited. It shall be unlawful for any person owning; operating or in lawful control of any motor vehicle to create, cause, permit, produce or play a radio, stereo or similar device which produces or amplifies sound in such a manner as to create or cause a noise disturbance, which shall be defined as any sound which can be heard at a distance of one hundred feet or more from the source, when such motor vehicle is operated on a public-right-of-way, any public property or while parked upon any private property within the City of Durant. This section shall not apply to loudspeaker/public address systems and emergency signaling devices, including car alarm systems.

10-7 EXEMPTIONS. This Chapter shall not apply to authorized police, fire ambulance, and other emergency vehicles and special mobile equipment, licensed and authorized by the State of Iowa as such special mobile equipment.

10-8 VIOLATION-PENALTY. Any person violating any of the provisions of the Chapter shall, upon conviction, be subject to imprisonment not to exceed thirty days or a fine not to exceed five hundred dollars. This Chapter may also be enforced under the provisions of the Municipal Infraction Ordinance.

## COMMUNITY PROTECTION

### CHAPTER 11 NUISANCES

11-1	Definitions
11-2	Nuisances Prohibited
11-3	Other Conditions Regulated
11-4	Notice to Abate Nuisance or Condition
11-5	Contents of Notice to Abate
11-6	Method of Service
11-7	Request for Hearing and Appeal
11-8	Abatement in Emergency
11-9	Abatement by Municipality
11-10	Collection of Cost of Abatement
11-11	Installment Payment of Cost of Abatement
11-12	Condemnation of Nuisance
11-13	Violations, Penalties and Alternative Relief
11-14	Civil Citations
11-15	Criminal Penalties

11-1 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. The term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

(Code of Iowa, Sec. 657.1)

- a. The 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.

(Code of Iowa, Sec. 657.2(1))

- b. The causing or suffering any offal, filth, or noisome substance to accumulate or to remain in any place to the prejudice of others. (Code of Iowa, Sec. 657.2(2))

- c. The 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. (Code of Iowa, Sec. 657.2(4))

- d. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

(Code of Iowa, Sec. 657.2(5))

- e. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted

to the disturbance of others.

(Code of Iowa, Sec. 657.2(6))

- f. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which 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 as to render dangerous the use thereof, especially near intersecting streets.

(Code of Iowa, Sec. 657.2(7))

- g. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, within the fire limits of this City, unless it be in a building of fire resistant construction.

(Code of Iowa, Sec. 657.2(10))

- h. The emission of dense smoke, noxious fumes, or fly ash.

- i. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard. Grasses taller than ten inches shall be considered a nuisance.

(Code of Iowa, Sec. 657.2(12))

- j. Trees infected with Dutch elm disease.

(Code of Iowa, Sec. 657.2(13))

- k. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.

(Code of Iowa, Sec. 716.1)

- l. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

(Code of Iowa, Sec. 657.2)

m. "Graffiti" means any sign, symbol, marking, drawing, name, initial, word, diagram, sketch, picture, or letter placed upon the real or personal property of an owner, excluding vehicles without the owner's express consent; provided, however, consent of owner shall not be an exception where the graffiti is visible from public property or right-of-way and tends to incite violence or disorderly conduct or is obscene under state law. After a prima facie showing that an inscription or marking is graffiti, the burden of proving owner's express consent is upon the defendant.

n. "Implement of graffiti" means a spray paint container, paint, ink, marking pens containing non-water soluble fluid, brushes, or other materials used for painting, marking, scratching, or etching in a non-temporary way.

- 2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.1)

11-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and



a nuisance, public or private, may be abated in the manner provided in this Chapter.  
(Code of Iowa, Sec. 657.3)

11-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this Ordinance:

1. Junk vehicles. Refer to Chapter 3-3.
2. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.  
(Code of Iowa, Sec. 364.12(3)(b))
3. The removal, repair, or dismantling of dangerous buildings or structures.  
(Code of Iowa, Sec. 364.12(3)(c))
4. The numbering of buildings.  
(Code of Iowa, Sec. 364.12(3)(d))
5. The connection to public drainage systems from abutting property when necessary for public health or safety.  
(Code of Iowa, Sec. 364.12(3)(e))
6. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.  
(Code of Iowa, Sec. 364.12(3)(f))
7. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.  
(Code of Iowa, Sec. 364.12(3)(g))
8. Graffiti prohibited.  
It shall be unlawful for any person to place graffiti upon the real or personal property of another. It shall be unlawful for any person to have graffiti, visible from public property or right-of-way, upon his real or personal property for more than a reasonable time period not to exceed ten days. Graffiti declared a nuisance:

*Graffiti, visible from public property or right-of-way, is hereby declared a nuisance and must be removed by the property owner within a reasonable time period. Said notice shall be delivered personally to the property owner followed by written notice through certified U.S. mail. The property owner shall be informed in said notice as to the deadline by which he must act. If the property owner wishes to appeal the notice, he may do so by filing a written notice of appeal with the office of the city clerk.*

11-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other condition exists which is listed in Section 3, the Mayor or officer shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice.  
(Code of Iowa, Sec. 364.12(3) (h))

11-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:  
(Code of Iowa, Sec. 364.12(3)(h))

1. A description of what constitutes the nuisance or other condition.
2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.
5. 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.

11-6 METHOD OF SERVICE. The notice may be served by:

1. Sending the notice to the occupant of the property, the record title holder, or both by certified mail with return receipt requested; or
2. Serving said notice upon the occupant of the property or the record title holder by personal service; or
3. Posting a copy of said notice upon the property in the event (1) or (2) above cannot be used; or
4. Publishing said notice in a newspaper of general circulation within the City.

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

11-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal shall be heard before the City Council at a time and place fixed by the City Council. The findings of the City Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

11-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this Chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

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

11-9 ABATEMENT BY MUNICIPALITY. 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 City Clerk, who shall pay such expenses on behalf of the municipality.

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

11-10 COLLECTION OF COST OF ABATEMENT. The City Clerk shall mail a statement of the total expense incurred 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 City Clerk shall certify the costs to the County Auditor and they shall then be collected with, and in the same manner, as general property taxes.

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

11-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

11-12 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

11-13 VIOLATIONS, PENALTIES AND ALTERNATIVE RELIEF. A municipal infraction is punishable by a civil penalty as provided in this section, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in the Durant Municipal Code. A municipal infraction shall be punishable under the procedures set forth in Section 364.22, Subsections (5) through (12), Code of Iowa.

1. Schedule of Civil Penalties:

First Offense	\$750.00 maximum
Second Offense	\$1000.00 maximum
Third and all subsequent repeat offenses	\$1000.00

2. Repeat Offenses. Each day that a violation occurs or is permitted to exist by the violator

constitutes a separate offense.

3. Alternative Relief. Seeking a civil penalty as authorized in this Chapter does not preclude as authorized in this Chapter does not preclude the City from seeking alternative relief from the Court in the same action, nor does the seeking of a civil penalty preclude the City from filing criminal charges for similar violations where provided by the Durant Municipal Code or the Code of Iowa. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

11-14 CIVIL CITATIONS. Any officer authorized by the City to enforce the Durant Municipal Code may issue as civil citation to a person who commits a municipal infraction. The citation may be served by personal service or by certified mail, return receipt requested. A copy of the citation shall be sent to the Clerk of the District Court, Cedar County Courthouse, Tipton, Iowa (or the Muscatine County Clerk or Scott County Clerk if the offense occurs in Muscatine County or Scott County, respectively). The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

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.

11-15 CRIMINAL PENALTIES. This Chapter does not preclude a peace officer from issuing a criminal citation for a violation of the Durant Municipal Code or City regulations 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 the Durant Municipal Code by criminal sanctions or other lawful means.

## COMMUNITY PROTECTION

### CHAPTER 12 JUNK AND ABANDONED VEHICLES

- 12-1 Purpose
- 12-2 Definitions
- 12-3 Removal of Abandoned Vehicles
- 12-4 Notification of Owners and Lien holders
- 12-5 Impoundment Fees and Bonds
- 12-6 Hearing Procedures
- 12-7 Auction or Disposal of Abandoned Vehicles
- 12-8 Junk Vehicles Declared a Nuisance
- 12-9 Notice to Abate
- 12-10 Abatement by Municipality
- 12-11 Collection of Cost of Abatement
- 12-12 Exceptions
- 12-13 Interference with Enforcement

12-1 PURPOSE. The purpose of this Chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 364.1, Ordinance D-9)

12-2 DEFINITIONS. For the purpose of this Chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:
  - a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle totally inoperable; or unsafe or
  - b. A vehicle that has remained illegally on public property for more than twenty-four hours; or
  - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
  - d. A vehicle that has been legally impounded by order of the Chief of Police and has not been reclaimed for a period of ten days; or
  - e. Any vehicle parked on the street determined by the Chief of Police to create a hazard to other vehicular traffic. (Code of Iowa, Sec. 321.89(1)(b))
2. "Private property" means any real property within the City which is not public property as defined in this section.

3. "Public property" means any public right-of-way open for the purposes of vehicular travel.
4. A "junk vehicle" means any unlicensed vehicle stored within the corporate limits of the City of Durant, Iowa, and which has any one of the following characteristics:
  - a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.
  - b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.
  - c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.
  - d. Any vehicle which contains gasoline or any other flammable fuel.
  - e. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.
  - f. Any other vehicle which, because of its defective or obsolete condition, in any right-of-way constitutes a threat to the public health and safety.  
(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)
  - g. Any vehicle not displaying current registration plates affixed to the vehicle and visible from the nearest street.
5. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

12-3 REMOVAL OF ABANDONED VEHICLES.

1. The Chief of Police may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-3-2(1). The Chief of Police may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.
2. The impoundment and storage of all vehicles pursuant to this Chapter shall be in such as or places designated by the City Council.
3. When a vehicle is taken into custody and impounded under the provisions of this Chapter, the Chief of Police shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.  
(Code of Iowa, Sec. 321.89(2))
3. Nothing in this Chapter shall govern the procedures of any police officer in taking into

custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this Chapter.

#### 12-4 NOTIFICATION OF OWNERS AND LIEN HOLDERS.

1. When a vehicle is taken into custody under the provisions of this Chapter or under any provisions of State law, the Chief of Police shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lien holders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:
  - a. Describe the year, make, model, and serial number of the vehicle.
  - b. Describe the personal property found in the vehicle.
  - c. Describe the location of the facility where the vehicle is being held.
  - d. Inform the persons receiving notice:
    - (1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;
    - (2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;
    - (3) that failure of the owner or lien holders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lien holders of all right, title, claim, and interest in the vehicle;
    - (4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle public auction or disposal of the vehicle to a demolisher.
  - e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this Chapter may request a hearing to contest these matters in accordance with the provisions of Section 12-6.
  - f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten-day reclaiming period.
  - g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 12-5.

(Code of Iowa, Sec. 321.89(3)(a))
2. The owner or any person receiving notice may, by written request received by the Chief of Police prior to the expiration of the ten-day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this Chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:
  - a. the identity of the last registered owner cannot be determined, or
  - b. the registration contains no address for the owner, or
  - c. it is impossible to determine with reasonable certainty the identity and address of all lien holders.

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

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.
5. No court in any case in law or equity shall recognize any right, title, claim, or interest from the owner and lien holders after the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

#### 12-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this Chapter or any other provision of law may recover such vehicle, such person shall present to the Chief of Police evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:
  - a. an impoundment fee
  - b. towing charges
  - c. preservation charges
  - d. storage charges
  - e. notice charges

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

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.
3. If a hearing is requested under Section 12-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:
  - a. the fees required by Section 12-5(1)
  - b. the amount of the fine or penalty for each violation for which there is an outstanding



or otherwise unsettled traffic violation notice or warrant.

12-6 HEARING PROCEDURES. The registered owner, any lien holder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to Chapter 4 of this Code.

(Code of Iowa, Sec. 321.89(3))

12-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Chief of Police shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

12-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Durant, Iowa, 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 vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

Prohibited Storage of Motor Vehicles. Outdoor storage of motor vehicles not currently licensed shall be prohibited in all zoning districts, except motor vehicles held for sale by a licensed motor vehicle dealer at the place of business in a zoning district where motor vehicle sales are permitted.

Outdoor storage of licensed motor vehicles is permitted. These vehicles, however, shall be safely operable for the use for which they are originally intended and must be moved regularly every (10) days. Vehicles no longer safely operable shall be repaired within ten (10) days of written notification. Vehicles not repairable shall be declared “junk” vehicles and must be removed from the property within ten (10) days of written notification.

(Ordinance 1-2, Passed December 11, 2001)

12-9 NOTICE TO ABATE.

1. Whenever the Chief of Police shall find a junk vehicle placed or stored on private property within the City in violation of Chapter 12 of this code, the Chief of Police shall notify, by certified mail with five days' return receipt, the following persons:
  - a. the owner of the property.
  - b. the occupant of the property.
2. The notice to abate shall:
  - a. describe to the extent possible, the year, make, model, and color of the vehicle.

- b. describe the location of the vehicle.
- c. state that the vehicle constitutes a nuisance under the provisions of this Chapter.
- d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

12-10 ABATEMENT BY MUNICIPALITY. 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 City Clerk who shall pay such expenses on behalf of the municipality.

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

12-11 COLLECTION OF COST OF ABATEMENT. The City Clerk shall mail a statement of the total expense incurred 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 City Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

12-12 EXCEPTIONS. This Chapter shall not apply to the following:

- 1. A vehicle in an enclosed building.
- 2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefore, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
- 3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

12-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this Chapter.

## **COMMUNITY PROTECTION**

### **CHAPTER 13 TRAFFIC CODE**

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- 13-2 Definitions
- 13-3 Traffic Accident Reports
- 13-4 Police Department to Submit Annual Reports

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

- 13-5 Authority of Police and Fire Department Officials
- 13-6 Required Obedience to Provisions of this Chapter and State Law

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- 13-8 City Council to Designate Crosswalks, Establish, and Mark Traffic Lanes
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13-1 SHORT TITLE. This Chapter may be known and cited as the "Traffic Code".

13-2 DEFINITIONS. Where words and phrases used in this Chapter are defined in Chapter 321 of the Code of Iowa, such definitions shall apply to this Ordinance.

1. "Park and parking" means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
2. "Stand or standing" means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.
3. "Stop", when required means complete cessation of movement.
4. "Residential districts" means all areas of the City not included in business districts.
5. "Stop or stopping", when prohibited, means 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 police officer or traffic-control sign or signal.
6. "Business districts" shall mean all areas zoned commercial, light industrial, and heavy industrial.

(Code of Iowa, Sec. 321.1)

13-3 TRAFFIC ACCIDENT REPORTS. The driver of a vehicle involved in an accident within the limits of this 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 Chief of Police. All such reports shall be for the confidential use of the police department. The City shall maintain a suitable system of filing traffic accident reports.

(Code of Iowa, Sec. 321.266 and 321.271)

13-4 POLICE DEPARTMENT TO SUBMIT ANNUAL REPORTS. The Police Chief shall prepare annually a traffic report which shall be submitted and filed with the City Clerk. Such report shall contain information on traffic matters in this City concerning the number of traffic accidents,

the number of persons killed or injured, the number and nature of violations, and other pertinent traffic data including the plans and recommendations for future traffic safety activities.

## ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

13-5 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. Provisions of this Chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the police department. The officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

13-6 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. Any person who shall willfully fail or refuse to comply with any lawful order of a police officer or direction of a fire department officer during a fire, or who fails to abide by the provisions of this Chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this Chapter. These sections of the Code are adopted by reference:

1. 321.32, 321.174, 321.174A, 321.189, 321.193, and 321.218 through 321.224 -- display of registration and license to drive.
2. 321.229 through 321.234A -- obedience to a peace officer and responsibility of public officers, emergency vehicles and bicycles to obey traffic regulations.
3. 321.256 through 321.260 -- traffic signs, signals and markings, including right or left turns on red.
4. 321.261 through 321.266 and 321.268 -- accidents and accident reporting.
5. 321.275 -- operation of motorcycles.
6. 321.277, 321.277A, 321.279 and 321.284 through 321.288, 321.290, 321.294, and 321.295 -- reckless driving, careless driving, drag racing, eluding, open container, speed, control of vehicle and minimum speed.
7. 321.297 through 321.310 -- driving on right, meeting, overtaking, following or towing.
8. 321.311 through 321.318 -- turning and starting, signals on turning and stopping.
9. 321.320 through 321.324 -- right of way and entering through highways.
10. 321.325 through 321.334 and 321.340 -- pedestrian rights and duties and safety zones.

11. 321.341 through 321.344 -- railroad crossings.
12. 321.353 through 321.360 -- stop at sidewalks, stopping, standing and parking.
13. 321.362 through 321.371 -- unattended vehicle, obstructing driver's view, crossing median, following fire apparatus, and putting glass, etc. on streets.
14. 321.384 through 321.409, 321.415, 321.418 through 321.423 -- lighting equipment required and time of use. (Under the provisions of Section 321.395, motor vehicles parked where permitted by this Ordinance need not have parking lamps lighted if the vehicle is within one hundred sixty (160) feet of a City street light ahead and to the rear of the vehicle and the permitted speed on said street is twenty-five (25) miles per hour or less.)
15. 321.430 through 321.446, 321.449 and 321.450 -- brakes, horns, sirens, mufflers, wipers, mirrors, tires, windows, safety belts, and special markings for transporting explosives.
16. 321.452 through 321.463, 321.465 and 321.466 -- size, weight and load.
17. Approaching Intersection from Different Streets. When two vehicles approach an intersection at approximately the same time in such a manner that one vehicle must yield in order to avoid a collision or a dangerously close approach to the other vehicle, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

## TRAFFIC CONTROL DEVICES

13-7 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The Chief of Police or Designee shall cause to be placed and maintained traffic control devices when and as required under this Chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic Ordinances of this City or under State law or to guide or warn traffic.

The Chief of Police shall keep a record of all traffic-control devices maintained by the department. All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.

(Code of Iowa, Sec. 321.255 and 321.256)

13-8 CITY COUNCIL TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The City Council is hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of

the roadway, crosswalks 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.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

13-9 PLAY STREETS. The City Council has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected, no person shall drive a vehicle upon the street or any portion thereof except drivers having business or whose residences are within the area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

### SPEED REGULATIONS

13-10 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES. It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Speed limit of 35 mph: On First Avenue between Highway 927 and north Corporate Line.
2. Speed limit of 30 mph: Fourteenth Avenue between State Highway 927 and the north Corporate line.
3. Speed limit on 5<sup>th</sup> Street 45mph from east city limits to 14<sup>th</sup> Avenue and 45 mph from Yankee Avenue to west City limits; 30 mph from 14<sup>th</sup> Ave to 9<sup>th</sup> Avenue; 25 mph from 9<sup>th</sup> Avenue west to 5<sup>th</sup> Avenue; 30 mph from 5<sup>th</sup> Avenue to west Yankee Avenue.
4. Speed limit of 25 mph from the southern corporate limit line on Vail Avenue to the northern corporate limit line of the City of Durant on Vail Avenue becoming 14<sup>th</sup> Avenue or Cedar/Scott Road.”

### TURNING MOVEMENTS

13-11 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

13-12 "U" TURNS. Whenever authorized signs are erected, it shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business



district and at intersections where there are automatic traffic signals.

### ONE-WAY STREETS AND ALLEYS

13-13 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any traffic Code of this City designates any one-way street or alley the Chief of Police or Designee shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

13-14 ONE-WAY STREETS. The following are declared to be one-way streets or alleys and the Chief of Police is hereby authorized to install appropriate traffic control device:

- Seventh Avenue between Ninth Street and Tenth Street in a northerly direction;
- Alley between Fifth and Sixth Avenues north of Seventh Street in a westerly direction;
- Fifth Avenue north of Seventh Street in a southerly direction.

When in the future the Durant City Council designates any other street or alley to be a one-way vehicular route, then the Chief of Police or Designee shall have the authority as provided in Section 13-7 of this Ordinance to install traffic control devices requiring one-way usage of any such street. Any violation of such one-way street restriction shall subject any one violating that restriction to the penalty provisions provided in Section 13-56 of this Chapter.

(Ordinance D-1, Passed January 26, 1993)

13-15 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The Chief of Police is authorized to determine and recommend to the City Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Chief of Police or Designee may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers, or other devices placed in accordance with this section.

### SPECIAL STOPS REQUIRED

13-16 AUTHORITY TO ERECT STOP SIGNS. Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Chief of Police to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

13-17 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS. At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Chief of Police is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the City Council, and, upon approval of the City Council, shall erect an appropriate sign at every place where a stop or yield is required.

13-18 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.

13-19 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten 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 driver shall have passed such school site.

#### PEDESTRIANS' RIGHTS AND DUTIES

13-20 PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

13-21 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway

(Code of Iowa, Sec. 321.326)

#### METHOD OF PARKING

13-22 STANDING OR PARKING CLOSE 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 inches of the curb or edge of the roadway except as provided in the case of angle parking and vehicles parked on the left hand side of one-way streets.

13-23 STANDING OR PARKING ON THE LEFT-HAND SIDE OF ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-

hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking. (Code of Iowa, Sec. 321.361)

13-24 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The City Council, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking.  
(Code of Iowa, Sec. 321.361)

13-25 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by the signs and markings.

#### STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES

13-26 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. 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.
8. 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 signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.
12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.
13. At any place where official signs or curb markings prohibit stopping, standing or parking.
14. Within ten (10) feet of the crosswalk at all intersections within the City.
15. In an alley under any fire escape at any time.
16. 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)).
17. On the North side of Seventh Street from Second Avenue to 125 ft. East of Third Avenue between the hours of 7:30 A.M. and 9:30 A.M. and 3:00 P.M. and 4:00 P.M. on school days.

13-27 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING. When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the City Council may cause curbing to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted.

(Code of Iowa, Sec. 321.358(10))

13-28 AUTHORITY TO IMPOUND VEHICLES. Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the City, under the following circumstances:

1. When a vehicle is upon a roadway and 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.

2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.
3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.
4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.

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

### STOPPING, STANDING OR PARKING

13-29 **PARKING SIGNS REQUIRED.** Whenever by this or any other Chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the City Council to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

13-30 **SNOW REMOVAL POLICY.** Snow and ice control are classified as emergency work and, therefore, City streets must be cleared at any time of the day or night. These conditions can begin as early as November 1st and continue through approximately April 1st of each year.

The Public Works Department will try hard to maintain adequate driving conditions. This does not necessarily mean dry pavement free of snow and ice but will be the goal if possible. The use of salt and sand mixtures will be employed for the melting of ice and hard packed snow. This mixture will only be used when positive results can be expected.

1. Snow Emergency. A snow emergency may be declared when two or more inches of snow are forecast. However, additional factors such as ice, wind and/or rain can also dictate the declaration of a snow emergency. During a snow emergency, on-street parking is not allowed. No vehicle shall be parked in or on any part of a public street or right-of-way of a public street during snow removal operations. Drivers are encouraged to find alternate parking spots before the first snow event. Violators will be ticketed first, and towed if not moved within 24 hours from the time of the ticket. If a resident has a driveway or garage apron on which to park, it is strongly suggested that these areas be used.
2. No parking shall be allowed between the hours of 2 a.m. and 6 a.m. on either the north

or the south side of 5<sup>th</sup> Street between 5<sup>th</sup> Avenue and 9<sup>th</sup> Avenue between the dates of November 15<sup>th</sup> and the following April 1<sup>st</sup> each year. Any car or vehicle parked in violation of this paragraph may be immediately towed at the owner's expense upon the order of the Durant Police Department or the Public Works Department. Signs shall be posted in the affected area alerting the public of this special parking restriction.

(Ordinance 2009-G, passed February 24, 2009)

3. Equipment and Personnel. When snow and ice control operations are in effect, all other operations of the Public Works Department will be of secondary importance.

The Public Works Supervisor and the Administrator have the authority to contract with private equipment operators to assist in snow removal when accumulations warrant their use. It is the intent of the Public Works Department to use as much snow removal equipment on the streets as possible, however, provisions must be made for equipment down time.

4. Snow Routes. A system of unmarked snow routes has been established for effective snow removal on the collector and arterial streets. These snow routes will provide service and direct access to schools, businesses, and emergency response vehicles (fire, ambulance, and police stations). Fifth street from the western corporate boundary to the eastern corporate boundary will be priority.

When the accumulations of plowed snow reaches the point that vehicular parking areas are filled, making on-street parking impossible, hauling of snow from the central business district will be implemented.

Even though a street has been plowed, it may remain hazardous due to ice or additional fallen snow. Residents should continue to maintain extreme caution while driving or walking as slick spots are likely to remain.

5. Monitoring Snow Events. The Public Works Department will continuously monitor weather reports when inclement weather is approaching. The Police Department, Public Works, Administrator, and Mayor shall also keep each other informed of forecasted snow events, their timing, and intensity.

During evening hours, the Police Department shall monitor weather reports and road conditions and notify the Public Works Supervisor and Administrator when snow removal or salting operations needs to begin.

6. Snow Removal From Private Property. City snow plows will not clear private property or businesses unless to allow access by emergency vehicles. Snow placed in private driveways by City plows is a natural process as a result of clearing the streets. Its removal is the responsibility of the property owner. Snow from private property may not be placed or piled on City streets or parking areas. Snow from a private driveway or business must

be piled in a manner that does not obstruct the view of motorists or pedestrians.

7. Safety. Safety is very important to any snow emergency. The public is encouraged to contact the City to report hazardous conditions, downed traffic signs, or overhead power lines. The public can also assist snow plowing operations by not parking motor vehicles on streets but by using driveways or garage aprons where possible.

8. Summary. To achieve the most reliable results from the Public Works Department, all citizens are expected to cooperate fully. During snow emergencies, all residents are asked to remove their parked vehicles from all streets, if possible. This will allow snow plows and other snow removal equipment an opportunity to clear streets quicker saving time and tax dollars.

13-31 ALL-NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

13-32 PUBLIC PARKING LIMITED.

1. Parking - Parallel - Angle - Straight-in. No person shall park a vehicle on any street other than parallel with the street and headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway, except that:

a. Angle Parking shall be permitted in the following places:

- (1) Upon those streets which are so marked by the painting of the curb and street to indicate that angle of parking;
- (2) Upon the east side of 4th Avenue from 6th Street to 7th Street and south side of 7th Street from 4th Avenue to 5th Avenue, west side of 5th Avenue from 6th Street to 7th Street, and north side of 6th Street from 4th Avenue to 5th Avenue.

b. Straight-in parking shall be permitted in the following places:

- (1) Durant Community School - the northerly 300 feet of 7th Street between 4th Avenue and 5th Avenue; the westerly 120 feet of 5th Avenue north of 7th Street.
- (2) Gloria Dei Lutheran Church - the southerly 275 feet of 7th Street west of 4th Avenue; the westerly 150 feet of 4th Avenue south of 7th Street.
- (3) Jaycee Park - the northerly 300 feet of 6th Street between 10th Avenue and 11th Avenue.
- (4) Russelloy Iron Foundry LLC - the southerly 165 feet of 4th Street west of 11th Avenue; the westerly 150 feet of 11th Avenue south of 4th Street.
- (5) Durant Municipal Electric - the southerly 150 feet of 6th Street east of 6th Avenue.

- (6) 510 5<sup>th</sup> Street and 506 6<sup>th</sup> Avenue - the westerly 220 feet of 6th Avenue north of 5th Street.
- (7) Dew Drop Inn - the easterly 150 feet 6th Avenue north of 5th Street.
- (8) 624 5<sup>th</sup> Street - the westerly 150 feet of 7th Avenue north of 5th Street.
- (9) Liberty Trust & Savings Bank- the westerly 150 feet of 8th Avenue north of 5th Street.
- (10) Liberty Insurance Agency - the easterly 150 feet of 8th Avenue north of 5th Street.
- (11) Dr. Richard Grunder - the westerly 130 feet of 9th Avenue north of 5th Street.
- (12) Durant Chiropractic Clinic - the easterly 130 feet of 9th Avenue north of 5th Street.
- (13) Jeff's Market - the westerly 75 feet of 6th Avenue south of 5th Street.
- (14) Price Oil - the easterly 75 feet of 6th Avenue south of 5th Street.
- (15) Hein Manor - the westerly 85 feet of 9th Avenue south of 3rd Street.
- (16) Upon those streets which are so marked either by the placing of proper signs or by the painting of the curb and the street to indicate straight-in parking.

2. Restrictions. No person shall park a vehicle, except when necessary to avoid conflict with other vehicular traffic or in compliance with law or at the direction of a police officer in any of the following places:

- a. Upon any sidewalk in the town;
- b. In front of any public or private driveway;
- c. Within any intersection;
- d. Within five feet of a fire hydrant;
- e. Upon any crosswalk;
- f. Upon any portion of the Right-of-Way of 5th Street from the east corporate limit of the City to the west corporate limit of the City except where designated;
- g. Within the twenty feet of a driveway entrance to any fire station.
- h. Within the radius of any cul-de-sac;
- i. Contrary to any officially placed signs or painted markings on either the curb or the street indicating parking restrictions or prohibition.

(Ordinance No. D-15, Passed November 23, 1999)

3. Truck Restriction. No person shall park any truck in any of the following places:

- a. Upon any street in any area designated as R-1 single family residential and R-2 mixed residential by the Zoning Ordinance for longer than one hour.
- b. Upon seal coated streets from 11th Street south to 2nd Street.
- c. A "truck" is any vehicle used for hauling goods or commodities which is seven feet or more in width or nineteen feet or more in length, and weighing seven tons or more.

(Ordinance No. D-15A, Passed May 9, 2000)



- d. No truck, trailer, or any other vehicle shall be parked at any time in the area bounded by the following described borders: the Westerly right-of-way line of Eighth Avenue, The Northerly right-of-way line of former Chicago Rock Island and Pacific Railroad Company right-of-way, now the right-of-way of Iowa Interstate Railroad, the Easterly right-of-way of 6th Avenue and a Northerly boundary defined as the South border of Pythian Sisters Park and the South borders of all other lots located west of Pythian Sisters Park and East of Sixth Avenue. The Durant Police Chief is hereby authorized to cause NO PARKING signs to be placed notifying the public of the above referenced parking restrictions. The penalty for violation of this subsection (Chapter 13-32(3.)(d.)) shall be a fine of not less than \$75.00 for any truck, trailer or semi, and a fine of not less than \$25.00 for any other vehicle. (Ordinance Passed February 27, 2001)
  - e. It shall be illegal to leave running an unattended motor vehicle for a period greater than 30 minutes. An exception to this rule would be allowed for delivery drivers or vehicles while conducting routine business within the corporate limits of Durant, Iowa.
4. Time Restrictions. No person shall park a vehicle in any of the three parking spaces located along the north line of 5th Street and immediately in front of the United States Post Office except while engaged in business at the Post Office, and any such parking shall be limited to a maximum time period of ten minutes. However, said time restrictions to these three parking spaces shall apply only between the hours of six a.m. and eight p.m. on Monday through Saturday. Prior to six a.m. or after eight p.m. on Monday through Saturday or at any time on Sunday, these three parking spaces may be used for general parking, subject only to such other restrictions as may pertain to these parking spaces in other provisions of the Durant City Code.  
(Ordinance 309, Passed 1990)
5. Persons with Disabilities. The following parking spaces shall be designated persons with disabilities parking spaces and shall be appropriately marked and signed according to state regulations:
- a. Community Center - two parking spaces and one unloading space on 5th Avenue.
  - b. City Hall - 2 parking spaces on 6th Street.
  - c. Liberty Insurance Agency - 1 parking space on 8th Avenue.
  - d. Liberty Trust & Savings Bank - 1 parking space on 8th Avenue.
  - e. Post Office - 1 parking space on 5th Street.
  - f. Dr. Richard Grunder - 1 parking space on 9th Avenue.
  - g. Durant Chiropractic Clinic - 1 parking space on 9th Avenue.
  - h. Durant Municipal Electric Plant - 1 parking space on 4th Street.
  - i. Durant Community School - 2 parking spaces on 6th Avenue.
  - j. Gloria Dei Lutheran Church - 4 parking spaces on 4th Avenue.

(Ordinance No. D-15, Passed November 23, 1999)  
(Ordinance No. 2-1, Passed January 22, 2002)

### MISCELLANEOUS DRIVING RULES

13-33 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area, except at a driveway.

13-34 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled, skateboards, rollerblades or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

13-35 PARKING FOR CERTAIN PURPOSES PROHIBITED. No person shall park a vehicle or trailer upon the roadway (the purposes of this section a trailer is defined as every vehicle without motive power designed for carrying persons, or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle) for the principal purpose of:

1. Displaying such vehicle for sale.
2. For washing, greasing or repairing such vehicle except such repairs as are necessitated by an emergency.
3. Displaying advertising.
4. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.
5. Storage or as junk or dead storage for more than forty-eight (48) hours.

13-36 DRIVING THROUGH FUNERAL OR OTHER PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this Chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

13-37 DRIVERS IN A PROCESSION. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

13-38 FUNERAL PROCESSIONS TO BE IDENTIFIED. A funeral procession composed of

vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the police department.

13-39 DRIVING IN 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.

13-40 LOAD RESTRICTIONS UPON VEHICLES USING 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:

13-41 SEMI-TRACTORS: PROHIBITED NOISES: It shall be unlawful for any person within the city limits to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor.

#### PERSONS WITH DISABILITIES PARKING

13-42 PERSONS WITH DISABILITIES PARKING. The purpose of the section is to establish and define a business district for the purpose of public parking and designating the appropriate percentage of parking spaces for persons with disabilities in accordance with Code of Iowa, Chapter 321L.5(4).

The said business district being established and defined is described as follows:

- 5th Street from 10th Avenue to 5th Avenue (north of right-of-way)
- 6th Avenue from 5th Street north to alley between 5th and 6th Street (both sides of the right-of way)
- 8th Avenue from 5th Street north to alley between 5th and 6th Street (both sides of the right-of-way)
- 5th Street from the west side of 6th Avenue to 150 feet west of the intersection of 5th Avenue and 5th Street
- 5th Street from the east side of the intersection of 7th Avenue and to 13th Avenue  
(Ordinance 2011-CP-01, Passed June 27, 2011)

## SNOWMOBILES

### 13-43 SNOWMOBILE DEFINITIONS.

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "Operate" means to control the operation of a snowmobile.
3. "Operator" means a person who operates or is in actual control of a snowmobile.

### 13-44 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
4. In a careless, reckless or negligent manner so as to endanger the safety of any person property of any other person.
5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver, who is actually occupying a seat in the vehicle.
7. No person shall operate a snowmobile in the City from eleven o'clock (11:00) p.m. to six thirty o'clock (6:30) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

### 13-45 EXCEPTIONS TO REGULATIONS. Notwithstanding the prohibitions of this Ordinance, the Administrator shall have authority to supervise and regulate events or programs in connection with events conducted by the City in which snowmobiles are used. The Administrator shall have the authority to designate City park areas available for the use of snowmobiles.

13-46 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.
2. Adequate brakes in good condition and at least one headlight and one taillight.  
A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

13-47 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

13-48 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

13-49 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

#### SKATEBOARDS, ROLLERBLADES, AND SCOOTERS

13-50 PURPOSE. Whereas the operation of skateboards, rollerblades and scooters by persons upon and over the public streets, public sidewalks and public right-of-ways within the City of Durant, constitutes a hazard to the general public of the City, while using said public right-of-ways and constitutes a danger of injury to the users.

13-51 PROHIBITED USE ON PUBLIC PROPERTY. The use of skateboards, rollerblades and scooters shall not be operated on 5th Street or the street itself.

13-52 SKATEBOARDS IN PARKS: Skateboards shall only be allowed to be operated in the fenced in area of the Skate Board Park at Jaycee Park. The use of skate boards shall not be allowed in any other parks, or park shelters in corporate limits of the City of Durant.

13-53 PROHIBITED USE OF SKATEBOARDS, SCOOTERS AND ROLLERBLADES ON PRIVATE PROPERTY. The use or operation of skateboards, scooters, and rollerblades by any person upon private property shall be permitted only if the operator has the expressed permission of the owner.

13-54 REGULATIONS OF OPERATION. Operators shall yield the right-of-way to all licensed motor vehicles and pedestrians upon the public streets and alleys and sidewalks and shall be subject to obey all traffic regulations.(This Ordinance shall be in effect from and after its final passage, approval and publication as provided by law. Passed and approved this 9<sup>th</sup> day of April, 2012.)

**PENALTIES AND PROCEDURE ON ARREST**

13-55 CITATION PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this Chapter at the City Clerk's office as provided therein.

13-56 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

13-57 LOCAL PARKING FINES. Scheduled fines are established for parking violations, payable by mail or in person at the City Clerk's office within seven days of the violation:

- |  |    |        |
|--|----|--------|
| 1. Overtime parking  | \$ | 25.00  |
| 2. Prohibited parking and No parking                             | \$ | 25.00  |
| 3. Blocking alley  | \$ | 25.00  |
| 4. Illegal parking   | \$ | 25.00  |
| 5. Street cleaning   | \$ | 25.00  |
| 6. Snow removal ban  | \$ | 25.00  |
| 7. Persons with Disabilities Parking                             | \$ | 200.00 |
| 8. Parking in fire zone or obstructing access to a fire hydrant. | \$ | 200.00 |

13-58 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the seven days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

**COMMUNITY PROTECTION**

**CHAPTER 14**

**REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**

14-1	Definitions
14-2	Exemptions
14-3	Permits
14-4	Requirements
14-5	Hours of Solicitation
14-6	Consumer Protection Law
14-7	Obstruction of Pedestrian or Vehicular Traffic
14-8	Permit Fees
14-9	Permit Issued
14-10	Display of Permit
14-11	Permit Not Transferable
14-12	Revocation of Permit
14-13	Notice
14-14	Hearing
14-15	Record and Determination
14-16	Appeal
14-17	Effect of Revocation

14-1 DEFINITIONS. For use in this Chapter, the following terms are defined as follows:

1. A "peddler" is any person carrying or transporting 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. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this Chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the City any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant. The provisions of this Chapter shall not be construed to apply to persons selling at wholesale to

merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

14-2 EXEMPTIONS. All Durant Organizations Resident Girl Scouts and Boy Scouts or school organizations, resident nonprofit civic, resident charitable, resident religious, or resident educational groups engaged in retail sale for the purposes of fund raising, shall be exempt from the application of this chapter.

14-3 PERMITS. Before any company or individual shall be eligible to apply for a permit, they must comply with State of Iowa code chapter 9C and post a bond of \$500 with the City Clerk. Such bond shall be conditioned that the applicant shall comply with the provisions of all the ordinances of the City and Statutes of Iowa regulating conditioned that the applicant shall comply with the provisions of all of the ordinances of the city, regulating and concerning the sale of goods, subscriptions, wares, merchandise or personal property of any nature, including food stuffs, or for services, including advertising, and will pay all judgments rendered against the applicant for any violation of ordinances or statutes or any of them together, with all judgments and costs that may be recovered against applicant by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with applicant, whether said misrepresentation or deceptions were made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale, or the solicitation of the sale, or through any advertisements of any character whatsoever, printed or circulated with reference to the subject matter of such sale or any part thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person. Such bond shall be further conditioned to indemnify and pay the city for any penalties or costs occasioned by the enforcement of this chapter and shall not be retired until after a lapse of one year from the expiration of each license.

Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk an application for a permit in accordance with the provisions of Sections 3-8-4 and 3-8-5. This permit shall extend no longer than sixty days.

(Code of Iowa, Sec. 9C.2)

14-4 REQUIREMENTS. A nonrefundable fee of twenty-five dollars (\$25.00) per company shall be paid at the time of applying for such application(s) to cover the cost of investigating the facts set forth therein. Any applicant engaged in activity described in Section 3-8-1 of this Chapter must file with the City Clerk and provide the following information:

1. Name and social security number, copy of photo ID or Driver's License of each applicant, and/or each person in the vehicle.
2. Permanent and local addresses of applicants and company and, in case of transient merchants, the local address from which proposed sales will be made;



3. A brief description of the nature of the sales method;
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale;
5. Length of time for which the permit is desired;
6. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation. Proof of insurance
7. Durant Police Department shall complete a criminal history check within 24 hours before a permit is granted.

14-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-8-1 except between the hours of 8:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

14-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

14-7 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-8-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

14-8 PERMIT FEES. A fee of \$50.00 per day per person shall be paid at the time of registration to cover the cost of investigation and issuance.

14-9 PERMIT ISSUED. If the City Clerk finds the application is completed in conformance with Section 3-8-4 of this Chapter and the facts stated therein are found to be correct, and the permit fee paid, a permit shall be issued immediately.

14-10 DISPLAY OF PERMIT. Each solicitor or peddler shall at all times while doing business in this City exhibit the permit as evidence that they have complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in their place of business.

14-11 PERMIT NOT TRANSFERABLE. Permits 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.

14-12 REVOCATION OF PERMIT. After notice and hearing, the City Clerk may revoke a permit issued under this Chapter for the following reasons:

1. Fraudulent Statements. The permittee has made fraudulent statements in the application for the permit or in the conduct of the business.
2. Violation of Law. The permittee has violated this Chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The permittee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

14-13 NOTICE. The permit holder, and the surety on their bond, shall be served with written notice containing particulars of the complaints against them, the Ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

14-14 HEARING. The City shall conduct a hearing at which both the permittee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the permittee, or their authorized representative, fail to appear without good cause, the City Clerk may proceed to a determination of the complaint.

14-15 RECORD AND DETERMINATION. The City Clerk shall make and record findings of fact and conclusion of law, and shall revoke a permit only when upon review of the entire record the City Clerk finds clear and convincing evidence of substantial violation of this Chapter or State law.

14-16 APPEAL. If the City Clerk revokes, or refuses to issue, a permit the City Clerk shall make a part of the record the reasons therefore. The permittee, or the applicant, shall have a right to a hearing before the City Council at the next regular meeting. The City Council may reverse, modify or affirm the decision of the City Clerk by a majority vote of the City Council members present and the City Clerk shall carry out the decision of the City Council.

14-17 EFFECT OF REVOCATION. Revocation of any permit shall bar the permittee from being eligible for any permit under this Chapter for a period of one year from the date of the revocation.

14-18 CIVIL VIOLATIONS & PENALTIES: Persons who fail to perform an act required by the provisions of this chapter or who commit an act prohibited by the provisions of this chapter shall be guilty of a simple misdemeanor punishable by fine and or imprisonment as provided by State of Iowa Code 903.1 (a) or Section 1-3-2 Title I General Provisions Chapter 3 Penalty of the City Code.  
(As per Ordinance 2013-01 adopted 04/08/2013)

SECTION 2. REPEALER CLAUSE. Any ordinance, provision or part thereof, which differs or is inconsistent with this ordinance, is hereby repealed, to the extent of said difference inconsistency.

SECTION 3. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4 This Ordinance shall be effect from and after its final passage approval and publication as provided by law. Any part of this Ordinance found invalid shall not affect this remainder of the Ordinance.

## **COMMUNITY PROTECTION**

### **CHAPTER 15 CURFEW FOR MINORS**

- 15-1 Purpose
- 15-2 Definitions
- 15-3 Curfew Established
- 15-4 Exceptions
- 15-5 Responsibility of Adults
- 15-6 Enforcement Procedures
- 15-7 Penalties
- 15-8 Notice
- 15-9 Expiration Date

PREAMBLE. The City of Durant, Iowa, City Council hereby finds that the number of offenses by minors has increased, posing a serious threat to the health, safety, and welfare of the minors and adults who live in Durant.

The City Council further finds there has been a significant breakdown in the supervision and guidance normally provided by certain parents and other adults responsible for juveniles under eighteen (18) years of age resulting in juvenile involvement in a wide range of criminal behavior, including the following:

1. Costly vandalism and criminal damage to public and private property including parks, schools, and other public buildings, automobiles, private dwellings and commercial and industrial establishments;
2. Possession and consumption of alcoholic beverages;
3. Possession and use of controlled substances;
4. Littering and trespassing on public and private property;

5. Thefts of motor vehicle parts, accessories and other personal property;
6. Burglary of public, commercial, industrial, and private buildings;
7. Assaults;
8. Loud and abusive language;
9. Interference with pedestrian and vehicular traffic;
10. Disturbance of neighborhood tranquility;
11. Various other acts disturbing the peace of the community; and

The City Council finds that such acts have caused citizens to fear both for their personal safety, the safety of their families and for the loss and destruction of their property.

The City Council finds that the offensive activities of the juveniles are not easily controlled by existing laws and Ordinances because the activities are easily concealed whenever police officers are present. The establishment of reasonable curfew regulations will enable the community to better maintain free and unobstructed access to streets and public places for the majority of residents. It further will enable the police to act reasonably and fairly to prevent violations of laws and Ordinances by juveniles.

The City Council finds that a curfew meets a local need and that curfew Ordinances in other communities have been a significant factor in minimizing juvenile delinquency. A curfew in Durant is particularly appropriate in view of the sense of the community that there is a proper time for the cessation of outdoor activities of juveniles. That sense of the community is reflected in the curfew hours declared by this Ordinance which take into consideration also the most dangerous hours for nocturnal crime.

The City Council finds that parents and other adults responsible for minors need to be made aware of their responsibility to prevent the commission of offenses by their children.

Durant is basically a family oriented community. Parental responsibility for the whereabouts of children is the norm accepted by a substantial majority of the community. Legal sanctions to enforce such responsibility have had demonstrated effectiveness in many communities over the years. The City Council has determined that as parental control increases, there is a likelihood that juvenile delinquency and criminal activity performed by juveniles decreases and that there is a need for a nocturnal curfew for juveniles in Durant.

15-1 PURPOSE. The City Council of the City of Durant, Iowa, hereby determines that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City, and specifically to achieve the following purposes:

1. Reinforce the primary authority and responsibility of adults responsible for minors.
2. Protect the public from the illegal acts of minors committed individually and in groups after the curfew hour.
3. Protect minors from improper influences and criminal activity by individuals and by groups that prevail in public places after the curfew hour.

## 15-2 DEFINITIONS.

1. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, a medical emergency in the home, an automobile accident, or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.
2. "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 community standard of adult responsibility through an objective test. It shall, therefore, be no defense that an adult responsible for a minor was completely indifferent to the activities, conduct or whereabouts of the minor.
3. "Minor" means any un-emancipated person under the age of eighteen (18) years.
4. "Non-secured custody" means custody in an unlocked multipurpose 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 in custody 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 is held in custody; and the use of the area is limited to providing non-secure custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents, or other responsible adult, or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six (6) hours beyond the initial six (6) hour period.
5. "Public place" shall include retail business establishments, parking lots, parks, playgrounds, streets, alleys, sidewalks dedicated to public use; and shall also include 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 invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this Chapter, a vehicle or other conveyance is considered to be a public place when in the areas defined

above.

6. "Responsible adult" means a parent, guardian or other adult specifically authorized by a parent or guardian to have custody or control of a minor.
7. "Un-emancipated" means unmarried and still under custody or control of a responsible adult.

15-3 CURFEW ESTABLISHED.

1. Unless accompanied by a responsible adult, no minor fifteen (15) years of age or younger shall be in any public place during the following times:
  - a. September 1 through May 31 the hours of 10:00 P.M. to 5:00 A.M. each day
  - b. June 1 through August 31 the hours of 11:00 P.M. to 5:00 A.M. each day
2. Unless accompanied by a responsible adult, no minor sixteen (16) through seventeen (17) years of age shall be in any public place during the following times:
  - a. September 1 through May 31 the hours of 11:00 P.M. to 5:00 A.M. each day
  - b. June 1 through August 31 the hours of 12:00 A.M. to 5:00 A.M. each day

15-4 EXCEPTIONS. The following are exceptions to the curfew:

1. The minor is accompanied by a responsible adult.
2. When the minor is on the sidewalk, lot or property where the minor resides, or the sidewalk, lot or property located on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
3. The minor is present at or is traveling between home and one of the following:
  - a. Minor's place of employment in a business, trade or occupation, in which the minor is permitted by law to be engaged, or, if traveling, within one hour after the end of work.
  - b. Minor's place of religious activity, or, if traveling, within one hour after the end of the religious activity.
  - c. Governmental or political activity, or, if traveling, within one hour after the end of the activity.
  - d. School activity, or, if traveling, within one hour after the end of the activity.
  - e. Organized 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 United States Constitution guaranteeing free exercise of religion, freedom of speech, freedom of assembly, or, if traveling, within one hour after the end of the activity,

4. The minor is on an emergency errand for a responsible adult.
5. The minor is engaged in interstate travel through the City beginning, ending or passing through Durant, when such travel is by direct route.

15-5      **RESPONSIBILITY OF ADULTS.** It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section, unless the minor's presence falls within one of the above exceptions.

15-6      **ENFORCEMENT PROCEDURES.**

1. **Determination of Age.** In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a police officer on the street shall, in the first instance, use his or her best judgment in determining age.
2. **Grounds for Arrest. Conditions of custody.** Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the Ordinance; refuses to provide proper identification or identify the person's self; or constitutes an immediate threat to the person's own safety or the safety of the public. A law enforcement officer who arrests a minor or a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured 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.
3. **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.
4. **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 period of time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the minor or another person who is known to the minor.

15-7      **PENALTIES.**

1. **Responsible Adult's First Violation-Warning.** In the case of a first violation by a minor, the Chief of Police shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew Ordinance against both the responsible adult and

minor, with applicable penalties.

2. Responsible Adult's Second Violation-Simple Misdemeanor. Any responsible adult as defined in this Ordinance who, following receipt of a warning, knowingly allows a minor to violate any of the provisions of this section shall be guilty of a simple misdemeanor, and upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County jail for a period not to exceed thirty (30) days.
3. Minor's First Violation-Warning. In the case of a first violation by a minor, the police shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew Ordinance against the responsible adult and the minor, with applicable penalties.
4. Minor's Second Violation-Simple Misdemeanor. For the minor's second and subsequent violations of any of the provisions of this Ordinance, the minor shall be guilty of a simple misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed five hundred dollars (\$500.00) or to perform community service as ordered by the court.

15-8 NOTICE. Notice of this Ordinance and its contents may be posted in, on or about such public or quasi-public places as may be designated by the City Administrator or the Police Department in order that the public may be constantly informed of the existence of the Ordinance and its regulations.

15-9 EXPIRATION DATE. This Ordinance shall be in full force and effect from and after the effective date of this Ordinance, and the requirements of a sunset provision and review by the City Council which was contained in the original Ordinance is hereby deleted.

(Ordinance D-3, Passed January 11, 1994)



## **COMMUNITY PROTECTION**

### **CHAPTER 16 ALCOHOLIC BEVERAGES**

- 16-1 Purpose
- 16-2 Required Obedience to Provisions Of this Chapter and State Law
- 16-3 Action by City Council
- 16-4 Transfers

16-1 **PURPOSE.** The purpose of this Chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

16-2 **REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.**  
The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions

2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited
15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Exoneration
16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings

- 23. 123.122 through 123.145 Beer Provisions (Division II)
- 24. 123.150 Sunday Sales Before New Year's Day
- 25. 123.171 through 123.182 Wine Provisions (Division V)
- 26. 321.284 Open Containers in Motor Vehicles - Drivers
- 27. 321.284A Open Containers in Motor Vehicles - Passengers

16-3 ACTION BY CITY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

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

16-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

## **COMMUNITY PROTECTION**

### **CHAPTER 17 FIRE PROTECTION**

- 17-1 Establishment and Purpose
- 17-2 Election of Officers
- 17-3 Fire Chief's Duties
- 17-4 Volunteer Firefighters
- 17-5 Fire Fighter's Duties
- 17-6 Worker's Compensation and Hospitalization Insurance
- 17-7 Liability Insurance
- 17-8 Fires Outside City Limits
- 17-9 Fire Department Advisory Board
- 17-10 Board Organization
- 17-11 Duties of the Board
- 17-12 Reports
- 17-13 Rules

17-1 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)

17-2 ELECTION OF OFFICERS. The Fire Department, with the first business meeting January of each year, shall elect, by ballot of its membership, a Chief, a 1st Assistant, a 2nd Assistant, 3<sup>rd</sup> Assistant and a corresponding Secretary. Results of the election shall be forwarded to the City Council for approval at the next council meeting. The officers of the Fire Department shall hold office for a period of one (1) year or until their successors qualify, unless sooner discharged or removed for cause by the Fire Department officers. Council shall be notified of a removal of an officer. Appeals of the removal of an officer shall be heard by City Council. Appeals must be in writing and filed at City Hall within 5 days of removal of an officer.

17-3 FIRE CHIEF'S DUTIES. The Fire Chief shall command all operations of the department, and be responsible for the care, maintenance, and use of all vehicles and equipment of the department. Subject to City Council approval, the Fire Chief shall establish and maintain departmental rules to carry out the requirements of this Ordinance. The Fire Chief has the authority to enter and inspect any building or premises in the performance of his or her duties and shall make written orders to correct any conditions that are likely to cause fire or endanger other buildings and property.

17-4 VOLUNTEER FIREFIGHTERS. All persons who live within a radius of three (3) miles of the Durant fire station and are at least age eighteen (18), may be appointed to serve as a volunteer firefighter. All volunteers shall be selected by an election of the existing members of the Volunteer Fire Department, which selection shall be subject to the approval of the City Council. Prior to appointment as a volunteer firefighter, all applicants shall be required to complete a physical test as determined by the membership of the Fire Department. Removal and discipline of a member shall be governed by the internal policies of the Fire Department and handled by officers of the Fire Department. A removed member may appeal their removal to City Council by filing a written appeal with the City Hall within 5 days of his/her removal from the Fire Department. **(Adopted 06/13/2016 Ord. Amendment 2016-01 City of Durant, Iowa)**

17-5 FIRE FIGHTER'S DUTIES. When called by the Chief, all fire fighters shall report for duty immediately in the manner directed by the Chief. They shall be subject to call at any time. They shall obey strictly the commands of any other fire fighter who has been appointed by the Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Chief.

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

17-6 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

17-7 LIABILITY INSURANCE. The City 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.

17-8 FIRES OUTSIDE CITY LIMITS. 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. 364.16)

#### ADVISORY BOARD

17-9 FIRE DEPARTMENT ADVISORY BOARD. A Fire Department Advisory Board is hereby created to advise the City Council on the needed facilities and equipment to provide adequate fire protection for the City of Durant, and such rural areas as shall contract with the City of Durant for fire protection.

17-10 BOARD ORGANIZATION. The Board shall consist of two (2) representatives of the Durant City Council; one (1) township trustee or their designated representative from each rural township which shall contract with the City of Durant for fire protection and the officers of the Durant Fire Department. The Mayor shall be an ex officio member of the Board.

17-11 DUTIES OF THE BOARD. In addition to its duties to make plans and rules for the operation of the Fire Department, and to revise and update the plans and rules as required, the Board shall annually review and approve the budget prepared by the City Administrator and Fire Chief.

17-12 REPORTS. The Fire Department's revenue and expenditures shall be reported monthly by the City Clerk to the City Council as required by law. The Fire Chief or his representative shall make a report to the City Council of the Fire Department's activities once a year at the first council meetings in February of each calendar year prior to the annual township meeting. The Council shall be apprised of any additional equipment purchased by Fire Fighter's Inc. but a full accounting of the Fire Fighter's Inc. shall not be required by City Council but may be required by the Auditor's Office of the State of Iowa.

17-13 RULES. The Board shall have power to make rules and regulations for the operation of the Fire Department and the conduct and duty of its members, subject to the approval of the rules by the City Council.

(Ordinance B-4, Passed June 18, 1980)

(Ordinance amended 01/25/2016)

## COMMUNITY PROTECTION

### CHAPTER 18 CIGARETTE LICENSE

18-1	Definitions	18-6	Refunds
18-2	Permit Required	18-7	Suspension; Revocation; Civil Penalty
18-3	Issuance	18-8	Permits not Transferable
18-4	Expiration	18-9	Display
18-5	Fees		

18-1 DEFINITIONS. For use in this Chapter the following terms are defined as follows:

1. "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 shall not be construed to include cigars.  
(Code of Iowa, Sec. 453A.1(2))
2. "Retailer" means and includes every person in this State who sells, distributes, or offers for sale for consumption, or possess for the purpose of sale for consumption, cigarettes irrespective of quality or amount or the number of sales.  
(Code of Iowa, Sec. 453A.1(19))
3. "Place of business" means and includes any place where cigarettes are sold or where cigarettes are stored, within or without the State of Iowa, by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.  
(Code of Iowa, Sec. 453A.1(17))

18-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Durant without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.  
(Code of Iowa, Sec. 453A.13)

18-3 ISSUANCE. The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a qualified retailer has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5.  
(Code of Iowa, Sec. 453A.13(2)(a))

18-4 EXPIRATION. Permits expire on June 30 of each year.  
(Code of Iowa, Sec. 453A.13(3))

18-5 FEES. The fee for permits issued or renewed are contingent upon State of Iowa Code.  
*City of Durant, Iowa*

Charges in this code will be followed. (Code of Iowa, Sec. 453A.13(3))

18-6 REFUNDS. A retailer may surrender an unrevoked permit and be refunded based on Iowa code.

(Code of Iowa, Sec. 453A.13(4))

18-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

1. If a retailer or employee of a retailer has violated Section 453A.2, 453A.36, subsection 6 or 453A.39, Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:
  - a. 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.
  - b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1500.00) 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 paragraph.
  - c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
  - d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
  - e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.
  - f. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 2B against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.
  - g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the

number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453.2, that takes place at the same place of business location.

2. If a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.
3. The City Clerk shall report the suspension or revocation of a retail permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

(Code of Iowa, Sec. 453A.22)

18-8 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another -place of business or retailer. However, if a retailer who holds a valid permit moves the place of business, the City Council, if it decides to issue a new permit for the new place of business, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

18-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13(10))



## COMMUNITY PROTECTION

### CHAPTER 19 SEX OFFENDERS

- 19-1 Purpose
- 19-2 Definitions
- 19-3 Residency Restricted
- 19-4 Municipal Infraction

19-1 PURPOSE. The purpose of this Ordinance is to provide for the safety and wellbeing of all citizens of Durant by restricting the residence of sex offenders who reside in Durant Iowa. This ordinance is a regulatory measure aimed at protecting the health and safety of children in the City of Durant from the risk that convicted sex offenders may reoffend in locations close to their residences. As recognized by the Eighth Circuit United States Court of Appeals in its April 29, 2005 decision of Doe V. Miller, and as recognized by the Iowa Supreme Court in State V. Seering, decided on July 29, 2005, the City of Durant finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by the state law near schools and day care centers. The City finds and declares that in addition to schools and daycare centers, children congregate or play at other child-oriented facilities identified in Section 1.3 of this Ordinance.

19-2 DEFINITIONS. For the purpose of this ordinance the following shall be defined as shown herein:

- A. "Sex Offender"- A person who has been convicted of a criminal offense against a Minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor as set out in Chapter 692A of the Code of Iowa.
- B. "Public Library"- A room or building owned by the City of Durant where a collection of books, periodicals, musical recordings and similar materials are kept for reading or reference.
- C. "Public Park"- Any area of land owned by the City of Durant, Cedar County, the State of Iowa, or any other governmental entity set apart for the recreation of the public.
- D. "Public Playground"- Any area of land owned by the City of Durant , Cedar County, or any other governmental entity used for outdoor games and recreation.

E. "School"- any public or private school.

19-3 RESIDENCY RESTRICTED. A sex offender shall not reside within two thousand feet (2000') of the real property comprising a school, public park, public playground, or a public library in the City of Durant.

19-4 MUNICIPAL INFRACTION. A sex offender who resides within two thousand feet (2000') of the real property comprising a school, public park, public playground, or public library does not commit a violation of this ordinance if any of the following apply:

A. The sex offender is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

B. The sex offender is subject to an order of commitment under Chapter 229A of the Code of Iowa.

C. The sex offender has established a residence prior to 8/12/2008, the effective date of this ordinance.

D. The sex offender is a minor or ward under guardianship.

(Ordinance 2008-G1, passed August 12, 2008)

## COMMUNITY PROTECTION

### CHAPTER 20 BURNING REGULATION

- 20-1 Deposit of Grass and Rubbish Prohibited in Public Streets
- 20-2 Burning Yard Waste
- 20-3 Wind-blown Refuse
- 20-4 Deposit of Refuse or Garbage on Private Premises
- 20-5 Fire Rings and Outdoor Fireplaces
- 20-6 Penalty

20-1 DEPOSIT OF GRASS AND RUBBISH PROHIBITED IN PUBLIC STREETS. It shall be unlawful for any person, firm or corporation to dump or deposit, or cause to be dumped or deposited any grass, leaves, branches or any other things in the roadway or gutter of any public street in the City.

20-2 BURNING YARDWASTE. It shall be unlawful in the City of Durant to burn any leaves, twigs, branches or any other vegetation or organic refuse, outside of any building or enclosed incinerator at any time except between the hours of 11:00 o'clock A.M. and 8:00 o'clock P.M. from March 15 to May 30 of each calendar year, and September 1 to December 1 of each calendar year. In addition, it shall be unlawful at all times to burn said material or other material of any nature on any Durant streets, curbs and gutters, sidewalks, or any other City property or rights of way, except that burning may be done in City alleys between the dates and at the hours stated above. Burning garbage is prohibited.

(Ordinance D10A, Passed November 24, 1992)

20-3 WIND-BLOWN REFUSE. It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles; and it shall be unlawful to permit the escape of such material so as to be wind-blown or scattered.

20-4 DEPOSIT OF REFUSE OR GARBAGE ON PRIVATE PREMISES. It shall be unlawful to place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the City. For the purpose of this section, vehicles or parts of vehicles not in condition for normal use shall be considered as junk or trash.

20-5 FIRE RINGS AND OUTDOOR FIREPLACES. The use of fire rings and self-contained outdoor fireplaces for recreational uses shall not be governed by this Ordinance.

20-6 PENALTY. Any person who shall violate any provision of this Ordinance shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 30 days. This Ordinance will be enforced per 1-3-2 of the Municipal Infraction Code.

(Ordinance D10A, Passed November 24, 1992)

## COMMUNITY PROTECTION

### CHAPTER 21 HAZARDOUS MATERIALS

21-1	Purposes
21-2	Definitions
21-3	Clean-Up Required
21-4	Notification
21-5	Disclosure

21-1 PURPOSES. In order to reduce the danger to public health, safety, and welfare from the spills of hazardous substances, the following regulations shall establish responsibility for the removal and clean-up of such spills within the City limits.

21-2 DEFINITIONS. For the purpose of this article, these words have the following meanings:

1. "Hazardous waste" means those wastes which are included by the definition in Section 455B.411, subsection 3, Code of Iowa, 1997, and the rules of the Iowa Department of Natural Resources.
2. "Hazardous substance" means any substance as defined in Section 455B.381, subsection 5, Code of Iowa, 1997.
3. "Hazardous condition" means the same as set out in Section 455B.381, subsection 4, Code of Iowa, 1997.
4. "Person having control over a hazardous substance" means the same as set out in Section 455B.381, subsection 7, Code of Iowa, 1997.
5. "Clean-up" means the same as set out in Section 455B.381, subsection 1, Code of Iowa, 1997.
6. "Treatment" means a method, technique, or process including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance nonhazardous, safe for transport, amendable for recovery, amendable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form of chemical composition of hazardous substance to render it nonhazardous.

21-3 CLEAN-UP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, jumping, spilling, leaking or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or 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 clean-up, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition, the costs of clean-up shall be borne by the person having control over a hazardous substance. If the person having control over a hazardous substance does not cause the clean-up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may proceed to procure clean-up services and bill the responsible person. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the clean-up is beyond the capacity of the City to finance or to accomplish, the authorized officer shall report to the City Council and immediately seek any State or federal funds available for said clean-up.

21-4 NOTIFICATION. The first City officer or employee, who arrives at the scene of an accident involving hazardous substance, if not a peace officer, shall notify the Police Department which shall notify the proper State office in the manner established by the State. Notification must be made not later than six (6) hours after the onset of the hazardous condition as set out in Section 455B.386, Code of Iowa, 1997.

21-5 DISCLOSURE. The person having control over a hazardous substance shall make known to emergency response personnel the name and chemical composition of the product. If this information is not readily available, the person having control over a hazardous substance will make every effort to make it available.

(Ordinance D-11, Passed February 24, 1988)

## COMMUNITY PROTECTION

### CHAPTER 22 RAILROAD REGULATION

22-1	Definitions
22-2	Warning Signals
22-3	Street Crossing Signs and Devices
22-4	Street Crossing Obstructions
22-5	Maintenance of Crossings
22-6	Flying Switches

22-1 DEFINITIONS. For use in this Chapter, the following terms are defined as follows:

1. The term "railroad train" shall mean any steam, electric or other motor driven engine and the cars, if any, coupled to the engine operated on rails, but does not include interurban and street cars. (Code of Iowa, Sec. 321.1(58))
2. The term "operator" shall mean any individual, partnership, corporation or other association that owns, operates, drives or controls a railroad train.

22-2 WARNING SIGNALS. Operators shall sound a bell at least 1,000 feet before a street crossing is reached and shall ring the bell continuously until the crossing is passed. Operators also shall sound a whistle at least 1,000 feet before reaching every intersection of the track and street, sidewalk, alley or similar public crossing within the City limits, unless such crossing is protected by a mechanical warning device or flagman as required under Section 3-4-5 of this Chapter. (Code of Iowa, Sec. 327G.13)

22-3 STREET CROSSING SIGNS AND DEVICES. Operators shall erect and maintain non-mechanical warning signs on both sides of the tracks at each intersection of the tracks and a street, sidewalk, alley or similar public crossing within the City limits, except where some mechanical sign, signal, device, or gate or flagman is required by resolution of the City Council. Such non-mechanical signs shall be of a height and size, and utilize such lettering as to give adequate warning of such crossing. Whenever the City Council shall deem it necessary for the safety and convenience of the public that some mechanical sign, signal, device or gate should be erected and maintained, flagman stationed at any street or other public crossing, the City Council, by resolution, shall order and direct the railroad company or companies concerned to erect and maintain such sign, signal, device, or gate or to station a flagman at such crossing at the expense of such company or companies. Any required flagman shall be stationed at such crossing during the periods of time of each day that the City Council shall designate. The resolution shall specify the street or other public crossing at which the sign, signal, device or gate shall be erected or flagman stationed. After the resolution has been adopted, a copy shall be served the railroad company or companies with a notice of the time limit for compliance. In complying, Chapter 327G of the Code of Iowa shall prevail. (Code

of Iowa, Sec. 327G.15)

22-4 STREET CROSSING OBSTRUCTIONS. A railroad corporation or its employees shall not operate a train in such a manner as to prevent vehicular use of a highway, street, or alley for a period of time in excess of ten minutes except in any of the following circumstances:

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

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking an object or person on the track.
3. When the train is disabled.
4. When necessary to comply with governmental safety regulations including, but not limited to, speed Ordinances and speed regulations.

22-5 MAINTENANCE OF CROSSINGS. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Code of Iowa, Sec. 327G.15)

22-6 FLYING SWITCHES. No operator shall cause any railroad car or cars, unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad shall be stationed at the intersection to give warning to approaching vehicles.

## ANIMAL CONTROL

### CHAPTER 23 ANIMAL PROTECTION AND CONTROL

23-1	Definitions
23-2	Animal Neglect
23-3	Livestock Neglect
23-4	Abandonment of Cats and Dogs
23-5	Livestock
23-6	At Large Prohibited
23-7	At Large Impoundment
23-8	Damage or Interference
23-9	Animal Nuisances
23-10	Procedure upon animal nuisances
23-11	Rabies Vaccination
23-12	Owner's Duty
23-13	Confinement

23-1 DEFINITIONS. For use in this Chapter the following terms are defined as follows:

1. The term "animal" shall mean a nonhuman vertebrate.
2. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not restrained within a motor vehicle, housed in a veterinary hospital, kennel, or not on a leash.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.01 of the Code of Iowa, or poultry including ducks and chickens, and specifically pot belly pigs.
4. The term "owner" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring an animal.
5. "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.

23-2 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)

23-3 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)

23-4 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)

23-5 LIVESTOCK AND POULTRY PROHIBITED. It is unlawful for a person to maintain, keep, or harbor any cattle, swine, pot belly pigs, sheep, llamas, horses, jacks, goats, guinea fowl, ostriches, poultry (domestic chicken, turkeys, geese, and ducks), or similar domestic animals raised for home use or for profit within the city limits unless the property upon which the animals are kept is zoned agricultural. Any structure for said livestock shall be located not less than one hundred (100') from the boundary of any R (residential) District.

This section shall not apply to a bona fide zoological garden, pet shop, educational institute, circus, carnival, or veterinary hospitals treating such animals.

23-6 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

23-7 AT LARGE IMPOUNDMENT. Any dog found at large shall be seized and impounded or, at the discretion of the Police, the owner may be served a summons to appear before a proper court to answer charges made there under.

Licensed dogs shall be returned to the owner, if possible. If the dog is impounded, the owner must pay the \$50.00 impounding fee before the dog will be returned. If the impounded licensed dogs are not recovered by their owners within seven (7) days after notice, the responsibility for the dogs shall be transferred to the Muscatine Humane Society.

Impounded unlicensed dogs may be recovered by the owner, upon proper identification, by payment of the license fee, proof of rabies certification, and an impounding fee of \$100.00. The City will post a public service notice in an attempt to inform the owner of the dog's location. If such dogs are not claimed within five (5) days after notice, the responsibility and

dog will be transferred to the Muscatine Humane Society physical custody.

(Code of Iowa, Sec. 351.37)

23-8 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.

23-9 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
2. Causes unsanitary, dangerous or offensive conditions.
3. Causes a disturbance by excessive barking or other noisemaking; or by running after or chasing persons, bicycles, automobiles or other vehicles, or for an owner of a cat to allow or permit such cat to cause serious annoyance to any person by frequent noisemaking of any kind.

(Code of Iowa, Sec. 657.1)

23-10 PROCEDURE UPON ANIMAL NUISANCES. Whenever the Mayor or other authorized municipal officer finds that an animal nuisance exists which is listed in Section 23-9, the Mayor or officer shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice. The notice to abate shall contain:

1. A description of what constitutes the animal nuisance.
2. The location of the animal nuisance.
3. A statement of the act or acts necessary to abate the animal nuisance.
4. A reasonable time within which to complete the abatement.
5. A statement that if the animal nuisance is not abated as directed and no request for hearing is made within the time prescribed, the owner of the cat or dog will be charged with a civil penalty or municipal infraction.

The notice may be served by certified mail or personal service to the property owner as shown by the

records of the County Auditor as well outlined in Section 11-6 of this code. Any person ordered to abate a nuisance may have a hearing with the officer ordering the abatement as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance exists. If the officer finds that a nuisance exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal shall be heard before the City Council at a time and place fixed by the City Council. The findings of the City Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances. A municipal infraction is punishable by a civil penalty as provided in this section, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in the Durant Municipal Code. A municipal infraction shall be punishable under the procedures set forth in Section 364.22, Subsections (5) through (12), Code of Iowa.

1. Schedule of Civil Penalties:

First Offense	\$750.00 maximum
Second Offense	\$1000.00 maximum
Third and all subsequent repeat offenses	\$1000.00

2. Repeat Offenses. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
4. 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, nor does the seeking of a civil penalty preclude the City from filing criminal charges for similar violations where provided by the Durant Municipal Code or the Code of Iowa. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

Any officer authorized by the City to enforce the Durant City Code may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service or by certified mail, return receipt requested. A copy of the citation shall be sent to the Clerk of the District Court, Cedar County Courthouse, Tipton, Iowa (or the Muscatine County Clerk or Scott County Clerk if the offense occurs in Muscatine County or Scott County, respectively).

The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

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.

This Chapter does not preclude a peace officer from issuing a criminal citation for a violation of the Durant City Code or City regulations if criminal penalties are provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Durant City Code by criminal sanctions or other lawful means.

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

23-11 RABIES VACCINATION. Every owner of a dog or cat shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog or cat in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs or cats 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)

23-12 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)

23-13 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after 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)

## ANIMAL CONTROL

### CHAPTER 24 DOG AND CAT LICENSES

- 24-1 Annual License Required
- 24-2 License Fees
- 24-3 License and Tag Issued
- 25-4 Kenneled Dogs and Cats

24-1 ANNUAL LICENSE REQUIRED. Every owner of a dog six (6) months shall procure a dog license from the City Clerk annually. The number of dogs, six months of age or older, shall be limited to two per household.

24-2 LICENSE FEES. The annual license fee shall be \$5.00 for each spayed and neutered dog. A fee of \$10.00 for any dog not spayed or neutered.

24-3 LICENSE AND TAG ISSUED. Upon payment of the license fee and a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated against rabies, the Clerk shall issue to the owner a tag stamped with the number of the license and the year for which it is issued. The tag shall be securely fastened to a collar or harness which shall be worn by the dog for which the license is issued. The Clerk shall keep a copy of the rabies vaccination certificate on file and the dog license which shall contain the name of the owner, the owner's place of residence, and a description of the dog. The Clerk shall enter in the license record the new number assigned. Any dog found running at large without the license tag attached to its collar shall be deemed unlicensed.

24-4 KENNELED DOGS OR CATS. Dogs which are kept in State or Federally licensed kennels and raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

## ANIMAL CONTROL

### CHAPTER 25 DANGEROUS ANIMALS

- 25-1 Definition
- 25-2 Dangerous Animal Exceptions
- 25-3 Dangerous Animals at Large
- 25-4 Notice to Remove
- 25-5 Appeal and Hearing
- 25-6 Seizure, Impoundment and Destruction
- 25-7 Costs and Expenses

25-1 DEFINITION. For the purposes of this chapter, a “dangerous animal” is defined as:

1. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so;

2. The following are animals which shall be deemed to be dangerous animals per se:

- 1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
- 2) Wolves, coyotes, and foxes;
- 3) Badgers, wolverines, weasels, skunks and mink;
- 4) Raccoons;
- 5) Bears;
- 6) Monkeys, chimpanzees, and apes;
- 7) Alligators and crocodiles;
- 8) Scorpions; Gila monsters;
- 9) Snakes that are venomous or constrictors;
- 10) Pit bulls, herein defined to be:
  - a. The Bull Terrier breed of dog;
  - b. The Staffordshire Bull Terrier breed;
  - c. The American Pit Bull Terrier breed;
  - d. The American Staffordshire Terrier breed;
  - e. Dogs of mixed breed or other breed which are known as pit bulls, pit bull dogs or pit bull terriers;
  - f. Any dog which has the appearance or characteristic of being predominantly of the breeds listed above.

- 11) Any crossbreeds of such animals which have similar characteristics to the specified above.
- 12) Any animals declared to be dangerous by the City Council.

25-2 DANGEROUS ANIMAL EXCEPTIONS. The keeping of dangerous animals shall not be prohibited in the following circumstances:

The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

25-3 DANGEROUS ANIMALS AT LARGE. A dangerous animal found at large and unattended upon public property or upon the property of someone other than its owner, thereby creating a hazard or danger to any person or property, may, in the discretion of the Police Chief, be destroyed if it cannot be safely confined or captured. The City shall be under no duty to attempt to confine or capture a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

25-4 NOTICE TO REMOVE.

1. Whenever the Police Chief finds that a dangerous animal is being kept in violation of this chapter, the Police Chief shall cause a written notice to be served upon the owner, agent or occupant of the property upon which the animal is found.
2. Such notice shall not be required where the dangerous animal has previously caused serious physical harm or death to any person. In such case, the Police Chief shall cause the animal to be immediately seized and impounded or destroyed if seizure and impoundment are not possible without risk of serious physical harm to any person.
3. The notice shall be served personally or by certified mail and shall contain the following:
  - A. A description of the dangerous animal and the location at which it is being kept;
  - B. An order to safely remove the animal from the City, permanently place the animal with any person, organization or group as described in Section 25-2, or destroy the animal;
  - C. A statement that such action must be taken within three (3) days after receipt of the notice;

D. A statement that the order may be appealed to the Council by filing written notice with the Clerk within three (3) days of receipt of the notice described herein.

#### 25-5 APPEAL AND HEARING.

1. A person receiving a notice may appeal the order to remove by filing a written notice of appeal with the Clerk within three (3) days after receipt of the notice to remove the dangerous animal. The notice of appeal shall state the grounds or basis for the appeal and shall be delivered personally or by certified mail. Failure to file a written notice of appeal constitutes a waiver of the right to appeal.
2. The appeal shall be heard by the Council at the first regular Council meeting after the notice of appeal is received. The hearing may be continued for good cause.
3. The Council may affirm or reverse the order to remove. The Council's written decision shall be filed with the Clerk within three (3) days after the conclusion of the hearing.
4. If the order to remove is affirmed, the person appealing shall be provided with a copy of the decision and shall have three (3) days from the date of receipt to remove the dangerous animal.

25-6 SEIZURE, IMPOUNDMENT AND DESTRUCTION. If the person receiving notice fails to comply with an order under Section 25-4 or with the Council's decision under Section 25-5, the Police Chief shall seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order to remove was issued has not petitioned the Iowa District Court for Cedar County for review of said order, the Police Chief shall cause the animal to be disposed of by sale, by permanent placement with a person, organization or group authorized to possess dangerous animals under Section 25-2, or by destruction in a humane manner.

#### 25-7 COSTS AND EXPENSES.

All costs, fees and expenses associated with the capture, confinement, impoundment and/or disposition of a dangerous animal shall be the responsibility of the owner of the animal.



## HUMAN DEVELOPMENT - EDUCATION AND CULTURE

### CHAPTER 26 LIBRARY SERVICES

- 26-1 Library Board
- 26-2 Board Organization
- 26-3 Duties of the Board
- 26-4 Reports
- 26-5 Penalties

26-1 LIBRARY BOARD. A library board advises the City Council on the contract with Scott County to provide library services. It shall also plan and oversee the gatherings, maintenance, display and preservation of historical information and materials about the City of Durant and encourage other related programs for the benefit and leisure time enjoyment of the City's residents of all ages.

26-2 BOARD ORGANIZATION. The Board shall consist of five (5) members, all citizens of the City, appointed by the Mayor with the approval of the City Council. All appointments to the Board shall be for five (5) years, except to fill vacancies, with each term to commence on January 1st. An appointment shall be made each year of the total number, as near as possible, to stagger the terms. The Board shall choose its Chairman and Vice-Chairman each year. Members shall serve without compensation, but may be reimbursed for actual expenses. Vacancies shall be filled in the same manner as original appointments.

26-3 DUTIES OF THE BOARD. In addition to its duty to plan for library and historical facilities and equipment and to update and revise those plans as required, the Board shall review and recommend actions to the Administrator regarding the Scott County Library contract. The Board shall convene at the request of the Mayor and City Council.

26-4 REPORTS. The Board shall make written reports to the City Council of its activities from time to time as it deems advisable or upon City Council request. The City Clerk will report revenues and expenditures monthly in the City Clerk's report to the City Council. Detailed reports will be provided to the Board at their request.

26-5 PENALTIES. Violation of a Board rule, which has been approved by the City Council and  
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adopted by Ordinance, may be cause for denial of use of a facility or participation in a program, but such denial which extends more than one (1) month may be appealed to the Board for a hearing. The violation may also be prosecuted under provisions of Chapter 3 of the Durant Municipal Code if a serious offense.

## HUMAN DEVELOPMENT - EDUCATION AND CULTURE

### CHAPTER 27 PARKS AND RECREATION BOARD

- 27-1 Parks and Recreation Board Created
- 27-2 Board Organization
- 27-3 Duties of the Board
- 27-4 Reports
- 27-5 Rules
- 27-6 Penalties

27-1 **PARK AND RECREATION BOARD CREATED.** A Park and Recreation Board is hereby created to advise the City Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation. It shall encourage the development of programs for the leisure time of the City's residents of all ages.

27-2 **BOARD ORGANIZATION.** The Board shall consist of five (5) members, all citizens of the City, appointed by the Mayor with the approval of the City Council for overlapping five (5) year terms. The Board shall choose its Chairman and Vice-Chairman every two (2) years thereafter. Members shall serve without compensation, but may receive their actual expenses. Vacancies shall be filled in the same manner as original appointments.

27-3 **DUTIES OF THE BOARD.** In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board shall advise and make recommendations to the City Council on properties devoted to parks and recreation, subject to the limitation of expenditures for supplies, contracts and capital outlays set forth in the annual budget provided by the City Council for park and recreation operations.

27-4 **REPORTS.** The Board shall make written reports to the City Council of its activities from time to time as it deems advisable or upon City Council request. Its revenues and expenditures shall be reported monthly by the City Clerk to the City Council.

27-5 **RULES.** The Board shall have power to make rules and regulations for the use of park or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the City Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

27-6 **PENALTIES.** Violation of a Board rule, which has been approved by the City Council and adopted by Ordinance, may be subject to denial of use of a facility or participation in a program, and/or municipal infraction. The violation may also be prosecuted under the Municipal Infraction Ordinance outlined in Chapter 3.

## HUMAN DEVELOPMENT-EDUCATION AND CULTURE

### CHAPTER 28 PARK REGULATIONS

- 28-1 Commercial Activity
- 28-2 Destroying Park Property
- 28-3 Injuring Wildlife
- 28-4 Placing Advertising in Parks
- 28-5 Firearms & Fireworks
- 28-6 Pets
- 28-7 Park Hours
- 28-8 Baseball Diamond Curfew
- 28-9 Unlicensed Motor Vehicles
- 28-10 Motor Vehicles
- 28-11 Parking
- 28-12 Littering
- 28-13 Skateboards in Parks
- 28-14 Inflatables in Parks
- 28-15 Sales of Articles or Services

28-1 **COMMERCIAL ACTIVITY.** It is unlawful for any person to conduct any promotional or commercial activity on any park property within the limits of the City, without first obtaining a written permit from the City.

28-2 **DESTROYING PARK PROPERTY.** It is unlawful for any person to deface, damage or destroy park property, natural or manmade.

28-3 **INJURING WILDLIFE.** It is unlawful for any person to disturb, injure or kill any wildlife on park property.

28-4 **PLACING ADVERTISING IN PARK.** It is unlawful for any person to place or cause to be placed any structure, advertising, or vegetation on park property, without first obtaining written permission from the Parks and Recreation Board.

28-5 **FIREARMS AND FIREWORKS.** It is unlawful for any person to have in his or her possession, shoot, fire, or explode any firearms, fireworks or explosives on park property.

28-6 **PETS.** No pets are allowed in city parks except on a maximum 6ft length leash. All pet waste must be cleaned up by owners.

28-7 **PARK HOURS.** All public parks within the City shall be open freely to the public from the hour of 6:00 a.m. through the hour of 10:00 p.m. of any one day, or one-half hour following the end of

an organized game. The parks will be open from December 1 through March 1 only from dawn to dusk hours.

It shall be unlawful for any person, or persons (other than City personnel conducting City business therein), to occupy or to be present in any public park during any hours in which said public parks are not open to the public unless such person, or persons, shall have secured a special permit from the City Clerk to occupy or be present in said park at such time.

Any section, or part of a public park, may be declared closed to the public by the Park Board at any time and at any interval of time, either temporarily or at regular or stated intervals.

28-8 BASEBALL DIAMOND CURFEW. No new innings shall start after 10:00 p.m. If an inning has been started, it shall be completed.

28-9 UNLICENSED MOTOR VEHICLES. It is unlawful for any person to operate an unlicensed vehicle on park property. All City of Durant or Durant Municipal Electric vehicles shall be exempt. Vehicles for the purpose of park maintenance shall be authorized by the City Clerk or Public Works Director upon a case by case nature.

28-10 MOTOR VEHICLES. It is unlawful for any person to operate any motor vehicle on park property, other than on park roadways, or designated parking areas. All City of Durant or Durant Municipal Electric vehicles shall be exempt. Vehicles for the purpose of park maintenance shall be authorized by the City Clerk or Public Works Director upon a case by case nature.

28-11 PARKING. It is unlawful for any person to park any vehicle anywhere but designated parking areas on park property.

28-12 LITTERING. It is unlawful for any person to litter park property.

28-13 SKATEBOARDS IN PARKS. Skateboards shall only be allowed to be operated in the fenced in area of the Skate Board Park at Jaycee Park. The use of skate boards shall not be allowed in any other parks, or park shelters.

28-14 INFLATABLES IN PARKS. Due to insurance liability, no inflatable toys or equipment are allowed in the parks unless included as part of carnival rides provided by a carnival ride company with proof of insurance.

28-15 SALES OF ARTICLES OE SERVICE. No person shall sell or offer for sale, or display or exhibit any article or service whatsoever in any park, trail, or parkway without prior approval of the City Council. This provision does not apply to such sales of refreshments or any other articles from concession stands authorized by the Council, nor does it apply to any concert, program, exhibit or entertainment authorized by the Council.

## **HUMAN DEVELOPMENT-EDUCATION AND CULTURE**

### **CHAPTER 29 COMMUNITY CENTER BOARD**

#### 29-1 Community Center Board

29-1 COMMUNITY CENTER BOARD. There is hereby established a Community Center Board. The Board shall be composed of 5 members, to include five members of the community nominated by the Mayor and approved by the City Council. The terms of the members shall be for four years, except that upon the initial composition of the Board, 2 members will be appointed for two years and 3 members will be appointed for four years, in order to stagger appointments. The Board may select a chairman and schedule meetings as it may desire.

The Board will act as the primary liaison between the management, staff, and the public for all matters pertaining to the Lamp Community Center. That center, for purposes of this Ordinance, shall comprise the northeast corner of City Park within the sidewalks leading to the Center. The areas of interest the Board will be competent to deal with shall include, but not be limited to, the following:

- 1) Guidance for Community Center staff/management concerning any issues brought to the Board by management.
- 2) Personnel issues relating to paid and volunteer staff
- 3) Wholesale and retail pricing of all goods and services offered by the Center.
- 4) Complaints from the public not dealt with directly by management
- 5) Recommendations to the City Council concerning any matters the Board judges to be beneficial to the operation of the Center.

The Board will make its recommendations to the full Council at any Council meeting. The Board will have no power to enact any ordinances, rules, or policies or procedures, or to execute contracts or expend City funds, all of which actions are reserved to the City Council.

(Ordinance 2010-01, passed January 25, 2010)

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 30 RAGBRAI-MISCELLANEOUS PERMITS

- 30-1 Purpose
- 30-2 Definitions
- 30-3 Permit Required: Food and Beverage, & Merchandise Vendor
- 30-4 Food and Beverage Vendor Fees
- 30-5 Non-Food Merchandise Vendor Fees
- 30-6 Food and Beverage Vendor/Merchandise Vendor Locations
- 30-7 Health Regulations
- 30-8 Vendor Fee Refunds and Permit Transfers
- 30-9 Glass Containers
- 30-10 Nuisance
- 30-11 Violations
- 30-12 Effective Period
- 30-13 Street Closings

30-1 PURPOSE. It is the purpose of this chapter to help city officials and citizens deal with the public health and safety problems created by the infusion of a large number of people into the City of Durant when the Des Moines Register's Annual Great Bicycle Ride Across Iowa (RAGBRAI) .

30-2 DEFINITIONS. For the purposes of this Ordinance:

- (1) "Entity" shall be defined as any person, club, group, organization, business, or corporation.
- (2) "Local" shall be defined as an entity with a permanent physical address established within the city limits of Durant, Iowa, or a 52747 zip code. RAGBRAI committee may request council approval for outside local-nonprofit vendors to be treated as local nonprofits.

30-3 PERMIT REQUIRED: FOOD AND BEVERAGE, & MERCHANDISE VENDOR. No entity or persons of any kind shall provide or sell food or beverages, sell or otherwise provide merchandise to the public in the City of Durant on July 25, 2015, unless said entity shall first obtain a Food and Beverage Permit or Non-Food Permit from the Durant RAGBRAI Committee. This provision does not allow existing business to sell food and beverages, or merchandise, off-site of their established locations, or on the public street or sidewalk abutting the licenses

premises, without first obtaining a Food and Beverage Vendor Permit from the Durant RAGBRAI Committee and approval from the City Council.

30-4 FOOD AND BEVERAGE VENDOR FEES. The fee for a **local Non Profit** Food and Beverage Permit shall be \$75.00 before July 1, 2015, and \$100.00 after July 1, 2015. The fee for a **local business** Food and Beverage Permit shall be \$150.00 if the permit is obtained before July 1, 2015 and \$200.00 if the permit is obtained after July 1, 2015. The fee for a Food and Beverage Vendor Permit for a **non-local nonprofit** and **non-local business** shall be \$300.00, if the permit is obtained before July 1, 2015 and \$300.00 if the permit is obtained after July 1, 2015.

30-5 NON-FOOD/MERCHANDISE VENDOR FEES. The fee for a **local Non Profit** Food and Beverage Permit shall be \$75.00 before July 1, 2015, and \$100.00 after July 1, 2015. The fee for a **local business** Non-Food and Beverage Permit shall be \$150.00 if the permit is obtained before July 1, 2015 and \$200.00 if the permit is obtained after July 1, 2015. The fee for a Non-Food and Beverage Vendor Permit for a **non-local nonprofit** and **non-local business** shall be \$200.00, if the permit is obtained before July 1, 2015 and \$300.00 if the permit is obtained after July 1, 2015.

30-6 FOOD AND BEVERAGE VENDOR/MERCHANDISE VENDOR LOCATIONS. An entity who has been granted a Food and Beverage Vendor Permit shall locate its temporary sale facility at a location to be determined by the Durant RAGBRAI Committee.

30-7 HEALTH REGULATIONS. An entity issued a Food and Beverage Vendor Permit pursuant to this Chapter shall comply with the Iowa Department of Health, Cedar & Scott County Department of Health rules and regulations pertaining to the sale and dispensing of food for consumption on its premises.

30-8 VENDOR FEE REFUNDS AND PERMIT TRANSFERS. Vendor fees shall not be refundable in whole or in part and are not transferable.

30-9 GLASS CONTAINERS. To promote safety during RAGBRAI, all beverages sold in Durant, Iowa, by food and beverage vendors on July 25, 2015 shall be sold in non-glass containers only. This requirement shall also apply to any restaurant, service station, grocery store or other establishment selling beverages on its premises in an **outdoor setting** open to the public.

30-10 NUISANCE. The sale of food, beverages, or merchandise or the erection of a temporary facility for the sale of such items without a Food and Beverage Permit or a Non-Food Permit on July 25, 2015 shall be considered a nuisance, as defined by Title III Community Protection Chapter 2 of the Code of Ordinances of the City of Durant. If this type of nuisance is determined to exist, and emergency abatement procedure is hereby established and may be executed by any police officer or those acting at their direction, by dismantling and removing the nuisance without prior notice. However, if the only nuisance or violation of this chapter is the offender's



failure to obtain the necessary permit, the Durant RAGBRAI Committee, in lieu of immediate abatement, may allow the person or organization to immediately purchase a necessary permit as provided by this Ordinance.

30-11 VIOLATION - PENALTIES. Selling or providing food, beverages, or merchandise to any person without the applicable permit on July 25, 2015 or any other violation of this Chapter shall be a simple misdemeanor punishable by a maximum fine of \$500 and/or a maximum of thirty (30) days in jail, or in the discretion of the City Attorney may be prosecuted as a municipal infraction, as set forth in Chapter 3 of the Code of Ordinance of the City of Durant, and therefore, any civil penalties may be likewise be assessed and enforced as set forth.

30-12 EFFECTIVE PERIOD. The provisions of this ordinance shall be effective from 5:00 a.m. – 2:00 p.m. (local time) on July 25, 2015.

30-13 STREET CLOSINGS. During the effective date and times of this ordinance and without prior Council approval regarding the blocking of any city streets, any Durant Police Officer, or those at their direction, may place barricades or road blocks on any street, alley, or roadway to redirect vehicular traffic in order to enhance the proper and safe flow of bicycle and vehicular traffic within the City limits of Durant.

## WATER

### CHAPTER 31 WATER SYSTEM

31-1	Definitions	31-11	Failure to Maintain
31-2	Public Works Director's Duties	31-12	Curb Box
31-3	Mandatory Connections	31-13	Interior Valve
31-4	Abandoned Connections	31-14	Inspection and Approval
31-5	Connections Before Improvements	31-15	Completion by the City
31-6	Permit	31-16	Service Lines
31-7	Fee for Permit	31-17	Repairs by the City
31-8	Compliance With Plumbing Code	31-18	Non-Liability of City
31-9	License Plumber Required	31-19	Operation of Curb Valve and Hydrants
31-10	Responsibility for Water Service Pipe	31-20	Backflow Prevention Program

31-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "Combined Service Account" means a customer service account for the provision of two or more utility services.

2. "Corporation Valve" is the valve located at the public water main, buried underground, is a brass valve and used to open and close off water service on a more permanent basis.

3. "Curb Stop Valve" is the valve typically located behind the sidewalk on private property. This valve can be accessed at ground level, commonly has a metal cap on an extended pipe, and is used to open and close water service to a house or building on a more regular basis.

2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. "Irrigation Meter" means a meter used to measure outside water usage that does not enter the sanitary sewer system.

4. "Public Works Director" means the Public Works Director of the City or any duly

authorized assistant, agent, or representative.

5. "Water Main" means a water supply pipe provided for public or community use.

6. "Water Service Pipe" means the pipe from the water main to the building served.

7. "Water System" or "Water Works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

31-2 PUBLIC WORKS DIRECTOR'S DUTIES. The Public Works Director shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this Chapter. This Chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this Chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the City Administrator may make temporary rules for the protection of the system until due consideration by the City Council may be made.

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

31-3 MANDATORY CONNECTIONS. All residences, commercial establishments, industrial establishments or other structures/establishments located within the City limits intended or used for human habitation, occupancy or use, or intended or used for the disbursement of water for other purposes, shall be connected to the public water supply system, if the same is reasonably available to the property upon which the applicable structure is located or use incurred.

31-4 ABANDONED CONNECTIONS. When an existing water service is abandoned , the connection shall be terminated by closing the corporation valve at the main and made absolutely tight.

31-5 CONNECTIONS BEFORE PERMANENT IMPROVEMENTS. When the City Council has ordered a street to be permanently improved, a plat shall be filed at the office of the City Clerk showing the lots and the names of the property owners in respect to the connections to the City water main to the curb line of the individual properties. Following inspection of the individual properties' water lines which abut the scheduled street improvement by the Public Works Director, any property found not to have a 3/4" copper service line will be required to replace said line in the amount of time allotted by the City Council in the form of a resolution. Any time prior to the time set for completion, any property owner may appear before the City Council and file written or oral objections. If the property owner fails to make connection with the main before the time fixed for completion, or within such as granted by the City Council, but not to exceed 20 days, the City Council shall order the connection made and the cost thereof shall be assessed against property and the amount certified to the County Treasurer in the manner provided by law and such assessment shall be collected with and in the same manner as general property tax.

31-6 PERMIT. Before any person, firm, corporation or other association shall make a connection

with the public water system, a written permit must be obtained from the City. The application for the permit shall be filed with the City. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the City. The Public Works Director shall issue the permit, bearing the Administrator's signature and stating the date of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under this permit must be completed within six (6) months after it is issued. The City may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped.

31-7 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay the fee of \$25.00 to cover the cost of issuing the permit and supervising, regulating and inspecting the work. In addition there shall be a connection fee paid to reimburse the City for costs borne by the City in making sewer service available to the property served in accordance with the following.

For water connections the (WAC) fee shall be assessed as follows:

- 1) \$0.05 per square foot for residential development.
- 2) \$0.075 per square foot for commercial development.
- 3) \$0.01 per square foot for industrial development.

31-8 COMPLIANCE WITH PLUMBING CODE. The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions of the *Uniform Plumbing Code*, laws of the state, and the Statewide Urban Design and Specifications (SUDAS).

31-9 LICENSED PLUMBER REQUIRED. All installation of water service pipes and connections to the municipal water system shall be made by a state licensed plumber. The licensed plumber must contact the City and be supervised by the Public Works Director.

31-10 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner protects the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

31-11 FAILURE TO MAINTAIN. When any portion of the water service pipe becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.

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

31-12 CURB VALVE. The plumber who makes the connection to the municipal water system shall  
*City of Durant, Iowa*

install a service shut-off valve of the inverted key type on the water service pipe near the curb with a suitable lock of a pattern approved by the Public Works Director. The shutoff valve shall be covered with a curb box of a pattern approved by the City.

31-13 INTERIOR VALVE. The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves in building for each customer so that service to one customer can be shut off without interfering with service to the others.

31-14 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected by the Public Works Director before they are covered, and the Public Works Director shall keep a record of such approvals. If the Public Works Director refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Public Works Director's approval. Every person who uses or intends to use the municipal water system shall permit the Public Works Director or the Public Works Director's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

31-15 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

31-16 SERVICE LINES. Service lines shall commence at the water main and include the corporation valve, the lines shall run directly from the water main to the property serviced. The service lines shall be the sole responsibility of the property owner and shall not be installed across lots or to adjoining properties. In the event a service line develops a leak, the property owner shall immediately cause the proper repairs to be made or install a new service line and failure to do so shall subject the property owner to discontinuance of water service.

31-17 REPAIRS BY THE CITY. All water consumers shall maintain service lines and equipment and fixtures in good repair and prevent unnecessary waste of water. In the event the City makes any repairs to a service line, meter or fixture, the consumer shall be billed for the materials and labor and such bill shall be paid within thirty days after presentation to the consumer, and if not paid within thirty days after presentation, the water service may be discontinued immediately. The City may in addition, at its election, require any such bills not paid within thirty days after presentation to be collected in the manner of property taxes. If a bill for repairs is not paid within thirty days after

presentation, the Administrator or the City Clerk shall bring the unpaid bill to the attention of the City Council. The City Council may by resolution then direct the City Clerk to certify any such unpaid expenses to the County Treasurer and it shall then be collected with, and in the same manner, as general property taxes. If the amount expended for such repairs exceeds \$100, the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid together with interest set by the City Council in said resolution in an amount permitted by State law pertaining to limits on interest, and thereafter said interest together with the cost assessed shall be paid in the same manner as assessments for benefited property.

(Ordinance C-3B, Passed April 27, 1993)

31-18 NON-LIABILITY OF CITY. The City of Durant does not guarantee a constant supply of water to any consumer and shall not be liable for any damages for failure to supply water or maintain pressure. No claim shall be made against the City by reason of the breaking of a water main or leakage from any main, line or meter. The City shall not be responsible in furnishing or restoring water service by reasons of damages resulting from open or defective connections or fixtures or damages occasioned by any other cause.

31-19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Public Works staff to operate a curb stop valve. Only those specifically authorized by the City shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

31-20 BACKFLOW PREVENTION PROGRAM. The City adopts the backflow prevention program as contained in the *State Plumbing Code*.

## WATER

### CHAPTER 32 WATER METERS

32-1	Purpose	32-7	Meter Repairs
32-2	Water Use Metered	32-8	Right of Entry
32-3	Fire Sprinkler Systems	32-9	Installation Fee
32-4	Location of Meters	32-10	Meters and Meter Accuracy
32-5	Meter Setting	32-11	Irrigation Meters
32-6	Meter Costs	32-12	Water Bypass Valves

32-1      **PURPOSE.** The purpose of this chapter is to encourage the conservation of water and enable the fair distribution of charges for water service among customers.

32-2      **WATER USE METERED.** All water supplied customers shall be measured through meters furnished by the City and installed by the City or a licensed plumbing contractor of the City's choice.

32-3      **FIRE SPRINKLER SYSTEMS.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the supervision of the Public Works Director. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open. If for residential sprinkler use, these homes shall not tap into the line for domestic use.

32-4      **LOCATION OF METERS.** All meters shall be so located that they are easily accessible for meter reading and repairs.

32-5      **METER SETTING.** The property owner shall provide all necessary piping and fittings for the proper setting of the meter including a shutoff valve on every service pipe inside the building near the entrance of the water service pipe into the building. Meter pits may be used only upon approval of the Public Works Director and shall be of a design and construction approved by the Public Works Director. In case of meters 1-inch or larger, the standard bypass shall be installed by the customer to meet A.W.W.A specifications and approval by the Public Works Director.

32-6      **METER COSTS.** The full cost of any meter larger than that required for a residential dwelling shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City.

32-7      **METER REPAIRS.** Whenever a water meter owned by the City is found to be out of order the Public Works Director shall have it repaired. If it is found that damage to the meter has

occurred due to carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.

32-8 RIGHT OF ENTRY. The Public Works Director or public works employee designated by the director shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

32-9 INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation of a water meter in excess of a ¾ inch meter in accordance with the schedule of such fees approved by resolution of the Council.

32-10 METERS AND METER ACCURACY. All water shall be supplied through radio read water meters that accurately measure the gallons of water supplied to a building. These meters shall be read monthly. The quantity of water recorded by the water meter located inside any premises shall be conclusive and binding upon both the customer and the City of Durant. When the interior water meter is found to be registering inaccurately or has ceased to register the quantity of water utilized, the quantity of water utilized during that period of time will be determined by using the average consumption of the six months prior. If the interior water meter is found to be registering inaccurately or has ceased to register the quantity of water utilized, it will be promptly replaced or repaired. The cost of replacement or repair shall be borne by the water consumer.

32-11 IRRIGATION METERS. The City Council determines that it is in the best interest of customer fairness and public policy to establish an irrigation meter policy. Irrigation meter consumption shall be determined by the average consumption of the previous year during the same season.

All new constructions shall require the installation of two water meters on the premises. The irrigation meter shall be for the purpose of metering water usage that does not enter the City sanitary sewer system. The irrigation meter shall be installed and is subject to all costs, conditions, and inspections as required by the City Code. New construction shall be charged for two meters on the building permit.

Owners of existing structures may purchase a permanent irrigation meter from the City to be installed by a state licensed plumber according to specifications provided by the Public Works Director. Installation of the irrigation meter must be inspected by the City of Durant Public Works. City staff has the authority to inspect the meter periodically to ensure that it is operating properly and legally.

Permanent Irrigation meters are required in all new residential construction. Permanent Irrigation meters can be purchased from the City for existing home installation. Customers are then credited for sewer charges on the outside water usage when the meter is read.

32-12 WATER BYPASS VALVES. A locking system is required to be installed for all new commercial and industrial meters.



## WATER

### CHAPTER 33 WATER RATES

- 33-1 Service Charges
- 33-2 Rates for Service
- 33-3 Billing for Water Service
- 33-4 Service Discontinued
- 33-5 Lien for Nonpayment
- 33-6 Lien Exemption
- 33-7 Lien Notice
- 33-8 Customer Deposits
- 33-9 Use of Water from Fire Hydrants
- 33-10 Snowbird Policy

33-1 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided in Chapter 32. Each location, building, premises or connections shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

33-2 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City effective July 1, 2015:

- 1 The minimum charge shall be \$18.00 for 0 gallons to 1000 gallons of usage plus tax per household or business per billing month.
2. Water shall be furnished at a rate of \$3.08 per one thousand gallons. The minimum consumption per customer shall be 1,000 gallons. Annually beginning January 1, 2016, the base rate and usage shall increase by no less than the most recent published Consumer Price Index, plus tax. In no case will the base rate annual increase be less than 1% minimum.
3. A usage rate of .00308/gallon per month for every gallon used above 1000 gallons.

(Code of Iowa, Sec. 384.84)

33-3 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. Utility bills shall be prepared and issued for combined service accounts on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at City Hall by the 20<sup>th</sup> day of each month. When the twentieth (20<sup>th</sup>) falls on Saturday, Sunday, or holiday, payment shall be accepted on the next business day without penalty.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of \$5.00 shall be added to each delinquent bill.
4. Returned Check Charge. The City shall charge a service charge of twenty-five (\$25.00) dollars to the account holder of any check provided as payment for utility service bills that is returned to the City due to non-sufficient funds. Such service charge shall be added to the amount due on the utility service bill and collected with the bill. The City shall consider customers who fail to pay such service charge delinquent and subject to Section 33-4, below.

33-4 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec.384.84)

1. If an account is not paid within seventeen days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:
  - a. The City Clerk shall send a disconnection or discontinuance notice by ordinary mail stating a disconnect date if no payment is received. If the customer is a tenant, a notice of delinquency shall also be sent to the landlord.
  - b. When a hearing is requested by a customer, the Administrator shall conduct a hearing within two days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Administrator is final.
  - c. A disconnect notice will be posted at the property and a fee of \$25.00 will be added to the delinquent bill at this time. The account holder will have until noon the following business day to pay the fees to avoid disconnection of service. Public Works department shall disconnect any service after noon if the delinquent bills and fees remain unpaid. Any service without a working curb stop shall be treated the same as a discontinued service with fees assessed. Property owners will be notified to fix curb stops.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, a fee of \$50.00 shall be paid to the City of Durant by 3:00 p.m. of shut off date, a fee of \$100.00 shall be paid to the City of Durant if after 3:00 p.m. of shut off date, in addition to the rates or charges then due before such service is restored.

33-5 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.  
(Code of Iowa, Sec. 384.84)

33-6 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. In addition, a lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

33-7 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

33-8 CUSTOMER DEPOSITS. All tenants requesting water service shall at the time of application pay to the City of Durant a deposit of \$200.00 to be retained as bond for any delinquent water charges incurred by the tenant. Upon termination of the use of the water service by that customer for that building, the City Clerk shall secure a final reading of the meter

from Public Works. Within 30 days, a final bill will be prepared, deducting any amounts owed to the City by the tenant from the deposit. Any balance due will be billed to the customer, and any credit will be issued as a check.

A customer is eligible for a refund of such deposit, without interest, prior to the termination of the use of water service if the customer has been billed for a period of twelve (12) consecutive months from the time water service commenced and the customer's account has not been delinquent. To clarify, only rental properties are required to pay the required \$200 deposit.

33-9 USE OF WATER FROM FIRE HYDRANTS. No water may be taken from any hydrant, main or well that is an active part of the City water system. Bulk water may be purchased from the City which is currently not connected to the water system but only if an approval is granted by a City official or an appointed City employee and the water may be drawn under the supervision of the appointed official or employee.

Bulk Rate. The rate for bulk water service shall be based on the rates listed in Section 33-2 listed above.

33-10 SNOWBIRD POLICY. Residents who will be vacationing from their homes for sixty (60) consecutive days, and who do not request their services be shut off at the curb by the city, shall be charged a minimum water bill per month. No minimum sewer bill shall be charged. Any usage will be due with monthly bill upon return of homeowner. If resident requests the shut off at curb, no minimum of bill shall be due.

## **WATER**

### **CHAPTER 34 WATER CONSERVATION**

- 34-1 Water Shortages
- 34-2 Conditions
- 34-3 Violation

34-1 WATER SHORTAGES. From time to time during and following drought conditions, or due to equipment failure, the City's water supply may become significantly and seriously depleted so that there will not be a sufficient supply of water to meet all customary and unusual demands. Under these conditions, the Council may find and declare by resolution a public water alert or water emergency during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction of water consumption, until, by resolution, the Council finds and declares the water shortage condition to be ended.

#### 34-2 CONDITIONS

1. Water Alert. When moderate but limited supplies of water are available, the Council through appropriate and reasonable means shall ask the general population to use practical restraint in water usage and to conserve water voluntarily by methods available.
2. Water Emergency. When very limited supplies of water are available, the Council shall order reduction of less essential or non-essential uses of water, including, but not limited to, one or more of the following:
  - A. The watering of shrubbery, trees, lawns, grass, plants, or any vegetation, except indoor planting, greenhouse, or nursery stocks.
  - B. The washing of automobiles, trucks, trailers, airplanes, or any other type of mobile equipment.
  - C. The washing of streets, driveways, parking lots, service station aprons, office buildings, exterior of homes or apartments or other outdoor services.
  - D. The operation of any ornamental fountain or other structure making a similar use

of water.

- E. The filling of swimming and/or wading pools, or the refilling of swimming and/or wading pools which were drained after the effective date of the order.
- F. The use of water from fire hydrants for any purpose other than fire suppression or other public emergency.
- G. The serving of drinking water in restaurants, cafeterias, or other food establishment unless requested by the individual.

34-3 VIOLATIONS. The following penalties shall apply for violation of the water alert or water emergency restrictions imposed in this chapter.

1. First Violation. For a first violation, the utility shall issue a written notice of violation to the water user.
2. Second Violation. For a second violation within a 12 month period, a surcharge shall be imposed in an amount equal to 25 percent of the previous water bill.
3. Subsequent Violations. For any subsequent violation within a 12 month period, a surcharge shall be imposed in an amount equal to 25 percent of the previous water bill and the water service will be shut off to the residence where the violation occurred. Service will not be restored until the customer pays the reconnection fee of \$50.00.

Any customer charged with a violation of the water alert or water emergency restrictions may request a hearing before the City Council. The City Council may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

## WATER

### CHAPTER 35 CONTAMINATION IN PROXIMITY TO WELLS

- 35-1 Location of Structure or Facility from Shallow Well
- 35-2 Location of Structure or Facility from Deep Well
- 35-3 Existing and Abandoned Wells
- 35-4 Designation of Wells as Shallow or Deep
- 35-5 Pre-existing Structures or Facilities

35-1 LOCATION OF STRUCTURE OR FACILITY FROM SHALLOW WELL. No structure or facility shall be located within the separation distances set forth in the Iowa Administrative Code Section 567 Chapter 43 – Water Supplies Design & Operation”

1. Well house floor drains to ground surface - 5 feet.
2. Water treatment plant wastes to ground surface - 50 feet.
3. Sanitary and industrial discharges to ground surface - 200 feet.
4. Floor drains and sewer force mains.
  - a. Floor drains from well house to surface - none within 5 feet.
    - (1) 5-10 feet water main materials enclosed in concrete permitted.
    - (2) 10-25 feet must be water main material.
    - (3) 25-75 feet must be watertight sewer pipe.
  - b. Floor drains to sewers, water plant wastes, storm or sanitary sewers or drains:
    - (1) None permitted within 25 feet.
    - (2) If closer than 75 feet, must be water main material.
    - (3) If between 75 and 200 feet, must be watertight sewer pipe.
  - c. Sewer force mains:
    - (1) None permitted within 75 feet.
    - (2) If within 200 feet, must be water main material.
5. Land application of solid waste - 200 feet.
6. Irrigation of wastewater - 200 feet.
7. Concrete vaults and septic tanks - 200 feet.
8. Mechanical wastewater treatment plants - 200 feet.

9. Cesspools and earth pit privies - 200 feet.
10. Soil absorption fields - 200 feet.
11. Lagoons - 200 feet.
12. Chemical application to ground surface - 200 feet. Aboveground chemical or mineral storage - 200 feet. On or underground chemical or mineral storage - 200 feet.
13. Animal pasturage - 50 feet.
14. Animal enclosure - 200 feet.
15. Animal wastes:
  - a. Land application of solids - 200 feet.
  - b. Land application of liquid or slurry - 200 feet.
  - c. Storage tank - 200 feet.
  - d. Solids stockpile - 200 feet.
  - e. Storage basin or lagoon - 200 feet.
16. Earthen silage storage trench or pit - 200 feet.
17. Basements, pits, sumps - 10 feet.
18. Flowing streams or other surface water bodies - 50 feet.
19. Cisterns - 100 feet.
20. Cemeteries - 200 feet.
21. Private wells - 200 feet.
22. Solid waste disposal sites - 200 feet.

35-2 LOCATION OF STRUCTURE OR FACILITY FROM DEEP WELL. No structure or facility shall be located within the separation distances set forth in the Iowa Administrative Code Section 567 Chapter 43 – Water Supplies Design & Operation

1. Well house floor drains to ground surface - 5 feet.
2. Water treatment plant wastes to ground surface - 50 feet.



3. Sanitary and industrial discharges to ground surface - 200 feet.
4. Floor drains and force mains.
  - a. Floor drains from well house to surface - none within 5 feet.
    - (1) 5-10 feet water main materials enclosed in concrete permitted.
    - (2) 10-25 feet must be water main material.
    - (3) 25-75 feet must be watertight sewer pipe.
  - b. Floor drains to sewers, water plant wastes, storm or sanitary sewers or drains:
    - (1) None permitted within 25 feet.
    - (2) If closer than 75 feet, must be water main material.
    - (3) If between 75 and 200 feet, must be watertight sewer pipe.
  - c. Sewer force mains:
    - (1) None permitted within 75 feet.
    - (2) If within 200 feet, must be water main material.
5. Land application of solid waste - 100 feet.
6. Irrigation of wastewater - 100 feet.
7. Concrete vaults and septic tanks - 100 feet.
8. Mechanical wastewater treatment plants - 200 feet.
9. Cesspools and earth pit privies - 200 feet.
10. Soil absorption fields - 200 feet.
11. Lagoons - 200 feet.
12. Chemical application to ground surface - 100 feet. Aboveground chemical or mineral storage - 100 feet. On or underground chemical or mineral storage - 200 feet.
13. Animal pasturage - 50 feet.
14. Animal enclosure - 100 feet.
15. Animal wastes:
  - a. Land application of solids - 100 feet.
  - b. Land application of liquid or slurry - 100 feet.
  - c. Storage tank - 100 feet.
  - d. Solids stockpile - 200 feet.

- e. Storage basin or lagoon - 200 feet.
- 16. Earthen silage storage trench or pit - 100 feet.
- 17. Basements, pits, sumps - 10 feet.
- 18. Flowing streams or other surface water bodies - 50 feet.
- 19. Cisterns - 50 feet.
- 20. Cemeteries - 200 feet.
- 21. Private wells - 200 feet.
- 22. Solid waste disposal sites - 200 feet.

35-3 EXISTING AND ABANDONED WELLS. Proscriptions as set forth in Sections 6-3-1 and 6-3-2 herein shall apply to all public water wells existing within the City of Durant, except public water wells formerly abandoned for use by resolution of the City Council.

35-4 DESIGNATION OF WELLS AS SHALLOW OR DEEP. The Durant City Council shall designate each water well within the City of Durant as being a "shallow well" or "deep well" for the purposes of this Ordinance.

35-5 PRE-EXISTING STRUCTURES OR FACILITIES. The use of structures or facilities existing at the time of enactment of this Ordinance may be continued even though such use may not conform with the regulations of this Ordinance. However, such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to adoption of this Ordinance.

(Ordinance C4, Passed April 22, 1987)

## SANITARY SEWER

### CHAPTER 36 SANITARY SEWER SYSTEM

36-1	Definitions
36-2	Prohibited Acts
36-3	Sewer Connection Required
36-4	Service Outside the City
36-5	Right of Entry
36-6	Use of Easements
36-7	Penalties
36-8	Deviations
36-9	Disclaimer

36-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.
2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building Sewer" means that part of the lowest 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" shall mean a sewer receiving both surface runoff 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. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, and

dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

8. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
9. "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 there from.
10. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
11. "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.
12. "PH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
13. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
14. "Public Works Director" means the Public Works Director of the City or any authorized deputy, agent or representative.
15. "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.
16. "Sanitary Sewer" means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
17. "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.
18. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
19. "Sewage works or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

20. "Sewer" means a pipe or conduit for carrying sewage.
21. "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.
22. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.
23. "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.
24. "Suspended Solids" shall mean 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.
25. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

36-2 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, area way 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 Public Works Director.
4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

7. Connect any pen, gutter, cesspool, privy vault or cistern with any public sewer or with any private sewer connecting with any public sewer.

36-3 SEWER CONNECTION REQUIRED. The owner of any house, building, or property 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 of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of the official notice to connect to the public sewer.

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

36-4 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. The City Council may rely upon the City Engineer to make a recommendation regarding a request to connect to City sewer service.

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

36-5 RIGHT OF ENTRY. The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Public Works Director or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

36-6 USE OF EASEMENTS. The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of,

but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

36-7 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 6-1-2, 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.

36-8 DEVIATIONS. Any deviation from prescribed procedures and materials set out in the sanitary sewer chapters must be approved by the Public Works Director or Council before being implemented.

36-9 DISCLAIMER. The City shall not be liable for any claim or damage on account of the breaking, malfunction or injury to any equipment used in the delivery of sewer service to persons connected with the sewer system.

## SANITARY SEWER

### CHAPTER 37 BUILDING SEWERS AND CONNECTIONS

- 37-1 Permit
- 37-2 Sewer Connection Charge
- 37-3 Plumber Required
- 37-4 Connection Requirements
- 37-5 Sewer Tap
- 37-6 Inspection Required
- 37-7 Property Owner's Responsibility
- 37-8 Abatement of Violations

37-1 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. There shall be three (3) classes of building sewer permits: (a) for residential (b) commercial service, and (c) industrial service. In either case, the owner or the owner's agent shall make application on a special form furnished by 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 six (6) months 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.

37-2 PERMIT FEE AND SEWER CONNECTION CHARGE. The person who makes the application shall pay a fee of \$25.00 to the City Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount paid to reimburse the City for costs borne by the City in making sewer service available to the property served in accordance with the following:

- 1) \$0.10 per square foot for residential development
- 2) \$0.015 per square foot for commercial development
- 3) \$0.02 per square foot for industrial development

37-3 PLUMBER REQUIRED. All installations of building sewers and connections to the public



sewer shall be made by a state licensed plumber.

37-4 CONNECTION REQUIREMENTS. The building sewer and its connection to the public sewer shall conform to the requirements of the Uniform Plumbing Code, applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) manual of Practice No. 9.

A separate and independent building sewer shall be provided for every 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, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Public Works Director, to meet all requirements of this Ordinance. The Public Works Director may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Public Works Director and removed or filled with sand, crushed rock or any other solid material approved by the Public Works Director, except as exempted by the Public Works Director.

37-5 SEWER TAP. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Public Works Director. Connections to the public sewer not made to an existing connection shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer. All building sewers shall be constructed according to the standards and specifications for the City of Durant.

37-6 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the Uniform Plumbing Code or Statewide Urban Design and Specifications (SUDAS).

37-7 PROPERTY OWNER'S RESPONSIBILITY. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

Should any excavation be left open or only partly refilled for twenty-four (24) hours after the building sewer is installed and connected with the sewer system, or should be work be improperly done, the Public Works Director shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

37-8 ABATEMENT OF VIOLATIONS. Building sewers, whether located upon the private property of any owner or in the public right-of-way, which are constructed or maintained in violation of any of the requirements of this chapter shall be deemed a nuisance and the same shall be abated by the City in the manner provided for the abatement of nuisances.

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

## SANITARY SEWER

### CHAPTER 38 USE OF PUBLIC SEWERS

- 38-1 Offense
- 38-2 Prohibited Discharges
- 38-3 Restricted Discharges
- 38-4 Restricted Discharges-Powers
- 38-5 Special Facilities
- 38-6 Inspection Structure
- 38-7 Testing of Wastes

38-1 OFFENSE. It is unlawful to discharge into any sewer or natural outlet or other part of the municipal sewer system within the City (or under the jurisdiction of the City) any wastewater, polluted waters or other waters or liquids except as permitted herein unless approved in accordance with the requirements of this chapter or in accordance with other applicable State, Federal or local standards adopted or approved by the City. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

- a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.
- b. Non-payment of bills.
- c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

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 Public Works Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Public Works Director, to a storm sewer, combined sewer, or natural outlet.

38-2 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 Material. 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) mg/l 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 of such size capable of causing obstruction to the flow of 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, garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-3 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Public Works Director that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Public Works Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste-or-odor-producing substances, in such concentrations exceeding limits which may be established by the Public Works Director as necessary after treatment of the composite sewage, to meet with requirements State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Director in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes having a PH in excess of 9.5.

10. Unusual Wastes. Materials 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 BOD, 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 waters 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 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.

14. Other. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Public Works Director. Where necessary in the opinion of the Public Works Director, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Public Works Director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

38-4 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 38-3 and which in the judgment of the Public Works Director may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 39.

38-5 SPECIAL FACILITIES. If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Director and Council, 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.

38-6 INSPECTION STRUCTURE . When required by the Public Works Director or the Council, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. The structure 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. All commercial or industrial establishments discharging other than domestic waste shall be required to install a monitoring manhole, in accordance with standards established by the Public Works Department. The Public Works Department shall require the installation of continuous monitoring equipment, when in the judgement of the Public Works Director, such installation is deemed necessary for appropriate monitoring (the total cost to be borne solely by the discharging party).

38-7 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where PH's are determined from periodic grab samples).

## SANITARY SEWER

### CHAPTER 39 SEWER SERVICE CHARGES

- 39-1 Sewer Service Charges Required
- 39-2 Rate
- 39-3 Private Water Systems
- 39-4 Payment of Bills
- 39-5 Lien for Nonpayment
- 39-6 Customer Deposits
- 39-7 Special Agreements Permitted

39-1 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees, rates, charges and surcharges as hereinafter provided.

(Code of Iowa, Sec 384.84)

39-2 RATE. Each customer shall pay sewer service charges for the use of and for the service supplied by the City of Durant sanitary sewer system as follows:

1. A base rate of \$28.97 per month for usage from 0-1000 gallons.
2. A usage rate of .00602/gallon per month for every gallon used above 1000 gallons.
3. Effective July 1, 2015, the minimum charge shall be \$33.97, plus tax per household or business building per billing month. The rate of sewer rent shall be \$8.02 per one thousand gallons.
4. Annually, beginning January 1, 2016, the base rate and usage rate shall increase by no less than the most recent published Consumer Price index, plus tax. In no case shall the annual rate increase be less than 1%.

In the event that more than one water meter serves a specific property, the total water usage of all meters shall be used for computing sewer rates.

39-3 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City, by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be



subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

39-4 PAYMENT OF BILLS. All sewer service charges are due and payable at the office of the clerk by the 20<sup>th</sup> day of each month. When the twentieth (20th) falls on Saturday, Sunday, or holiday, the City Clerk shall accept payment on the next business day without penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of \$5.00 shall be added to each delinquent bill.

39-5 LIEN FOR NONPAYMENT. Except as provided for in Section 33-6 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

39-6 CUSTOMER DEPOSITS. There shall be required from every customer not receiving water service a \_\_\_\_\_dollar deposit intended to guarantee the payment of bills for service. Upon termination of the use of the sewer service by that customer for that building, any balance of such deposit shall be returned to the customer without interest.

(Code of Iowa, Sec. 384.84)

39-7 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.

## **STORMWATER**

### **CHAPTER 40 STORM WATER MANAGEMENT POLICY**

#### 40-1 Storm Water Management Policy

40-1 Storm Water Management Policy. Storm Water Management is required for all new development within the City of Durant as well as re-subdivisions. Specific requirements for detention and general storm water management is provided or outlined in the City of Durant Subdivision Ordinance, Chapter 57 Section 57-6 of the City Code. A copy of the Subdivision Ordinance can be obtained at City Hall or on-line via City of Durant City Code.

**STORM WATER**  
**CHAPTER 41 STORMWATER UTILITY FEE**

**( RESERVED FOR FUTURE ADOPTION )**

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## FRANCHISES AND OTHER SERVICES

### CHAPTER 42 GAS FRANCHISE

- 42-1 Franchise Granted
- 42-2 Non-Exclusive Franchise
- 42-3 Street Excavation
- 42-4 Tariff
- 42-5 Responsibility for Excavation
- 42-6 Vacating of Property
- 42-7 Relocation of Existing
- 42-8 Relocation for Development
- 42-9 City Held Harmless
- 42-10 Confidentiality
- 42-11 Applicable Regulations
- 42-12 Supply of Gas
- 42-13 Franchise Agreement
- 42-14 Franchise Fee Exemptions
- 42-15 Franchise Implementation
- 42-16 Collection of Franchise Fees
- 42-17 Annexations
- 42-18 Customer Identification
- 42-19 Remittance of Franchise Fees
- 42-20 Franchise Fee Administration
- 42-21 Expenses Incurred
- 42-22 Ordinance Modification or Repeal
- 42-23 Right of Way
- 42-24 Termination of Franchise
- 42-25 Adjudication of Ordinance
- 42-26 Procedures of Ordinance
- 42-27 Effective Date

42-1 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company”, and to its successors and assigns the non-exclusive right and franchise to acquire, construct, erect, maintain and operate in the City of Durant, Iowa, hereinafter called the “City”, a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. The term of this franchise shall be 25 (twenty-five) years beginning from and after the effective date of this ordinance. Either the

Company or the City may not less than 90 (ninety) nor more than 180 (one hundred eighty) days prior to the tenth and fifteenth anniversary of the effective date of this ordinance provide written notice to the other party of its desire to amend the franchise. The parties shall negotiate these amendments in good faith for a period of up to ninety (90) days following receipt of notice. Failure to amend the franchise at the first option does not render invalid the City's second option to amend the franchise.

42-2 NON-EXCLUSIVE FRANCHISE. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2009 or as subsequently amended or changed.

42-3 STREET EXCAVATION. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

42-4 TARIFF . The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), 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 reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. The City and the Company shall work together to develop a suitable alternative route or construction method so as to eliminate or minimize the cost and expense to the company of relocation of company installations. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees at its cost or reimburse the Company for the expenses incurred to remove said trees.

If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

42-5 RESPONSIBILITY FOR EXCAVATION. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the

condition as existed prior to excavation. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with city, state or federal rules, regulations or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

42-6 VACATING OF PROPERTY. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to abandoning or vacating any street, avenue, alley or public ground where the Company has natural gas facilities, in the vicinity, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. The City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for existing Company facilities.

42-7 RELOCATION OF EXISTING The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

42-8 RELOCATION FOR DEVELOPMENT Pursuant to relocation of Company facilities as may be required by Sections 3, 4, 5, 6, 7 and 8 of this Ordinance, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or non-public entity, the City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

42-9 CITY HELD HARMLESS. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

42-10 CONFIDENTIALTY OF RECORDS. Upon reasonable request, the Company shall provide the City, on a project-specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way ("Information"). The Company and City recognize the Information provided may, under current Iowa law, constitute public records, but that nonetheless, some of the Information provided will be confidential under state or federal law or both. Therefore, the City shall give notice to Company at least 15 days in advance of any proposed release of Information





commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City's documentation of consumers subject to or exempted from City-imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

42-17 ANNEXATIONS. The City shall be solely responsible for identifying customers subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customers that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.

42-18 CUSTOMER IDENTIFICATION. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

42-19 REMITTANCE OF FRANCHISE FEES. The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows:

- January, February and March
- April, May and June
- July, August and September, and
- October, November and December

MidAmerican shall provide City with notice at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

42-20 FRANCHISE FEE ADMINISTRATION. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

42-21 EXPENSES INCURRED BY COMPANY MidAmerican Energy Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

42-22 ORDINANCE MODIFICATION OR REPEAL. The obligation to collect and remit the fee imposed by this ordinance is modified or repealed if:

1. Any other person is authorized to sell natural gas at retail to City consumers and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this ordinance, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate;
2. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas at retail to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or
3. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final nonappealable order (collectively, "final franchise fee action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After final franchise fee action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

The other provisions of this ordinance to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee as, effective as the date specified below with no liability therefor under each of any of the following circumstances as determined to exist in the sole discretion of Company:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court.
2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly.

3. The Iowa Utilities Board, or its successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

42-23 RIGHT OF WAY. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge Company right of way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

42-24 TERMINATION OF FRANCHISE. Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

42-25 ADJUDICATION OF ORDINANCE. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

42-26 PROCEDURES OF ORDINANCE. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10-days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within 30 days after its approval by the City Council this ordinance shall be void and of no effect.

42-27 EFFECTIVE DATE. Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

**FRANCHISES AND OTHER SERVICES**

**CHAPTER 43 UTILITIES - GAS RATES**

43-1 Gas Rates

43-1 GAS RATES. Mid-American Energy and its successors and assigns are hereby required to charge for gas delivered for general use in the City of Durant, Iowa. They must follow procedures established and governed by the State of Iowa.

## FRANCHISES AND OTHER SERVICES

### CHAPTER 44 CABLE TELEVISION FRANCHISE

- 44-1 Franchise Agreement
- 44-2 Terms of Franchise
- 44-3 Effective Date of Franchise  
and Acceptance of Franchise
- 44-4 Capacity of System
- 44-5 Transfer of Franchise
- 44-6 Severability
- 44-7 Insurance
- 44-8 Notices
- 44-9 Repealer
- 44-10 Adoption

44-1 FRANCHISE AGREEMENT. This Franchise Agreement (this "Franchise") is between the City of Durant, Iowa, hereinafter referred to as "Franchising Authority" and Cablevision VII Inc., hereinafter referred to as "Grantee".

The Franchising Authority, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction and operation of a cable system on the terms set forth herein.

44-2 TERMS OF FRANCHISE. Cablevision VII Inc., its successors and assigns, is hereby granted a renewal of their non-exclusive right, franchise and authority for a period of five (5) years to erect, maintain, and operate a Cable Television System in Durant, Iowa, cable service and other services in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system, subject to the conditions and restrictions provided and to the cable television regulatory, passed and adopted on March 28, 1995.

44-3 EFFECTIVE DATE OF FRANCHISE AND ACCEPTANCE OF FRANCHISE. This franchise and all rights thereunder shall become effective after final passage and publication hereof. Within sixty (60) days after the effective date of this franchise renewal, Cablevision VII Inc. shall file with the City Clerk an acceptance in writing of this franchise renewal and pay all costs as required under the laws of the State of Iowa.

44-4 CAPACITY OF SYSTEM. The Grantee shall maintain its system with a capacity capable of at least 35 channels in a manner which permits the Franchisee to take full advantage of the benefits of that technology, including increased reliability and improved system performance. The Grantee shall provide a minimum of thirty-one (31) activated channels on the basic/expanded basic tier of service during the term of this franchise.

44-5 TRANSFER OF FRANCHISE. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity, controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority; such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise System in order to secure indebtedness. Within 30 days of receiving the request for transfer, the Franchising Authority shall in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.

44-6 SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this franchise shall be held invalid or unenforceable or unconstitutional, the remaining provisions shall remain in full force and effect.

44-7 INSURANCE. The Grantee shall maintain insurance in such amounts and kinds of coverage as may be specified by the City in the initial franchise proposal. Such coverage may be adjusted by the City with an insurance company authorized to do business in the State of Iowa. All policies shall name the City, its employees, servants, agents, and officers as additional insured parties. A current certificate of for coverage required by this section shall be filed with the City Clerk prior to commencement of construction. The certificate shall provide that insurance may not be canceled nor the amount of coverage altered until thirty (30) days after receipt by the City Clerk of a registered mail notice of such intent to cancel or alter coverage.

The Grantee shall maintain and provide to the City Clerk proof of Public Liability Insurance for not less than the following amounts:

\$1,000,000	Any one occurrence, bodily injury or property damage
\$1,000,000	General Aggregate

44-8 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Durant

*City of Durant, Iowa*

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P.O. Box 818  
Durant, Iowa 52747-0818

The notice or responses to the Grantee shall be addressed as follows:

Cablevision VII Inc.  
P.O. Box #1595  
Clinton, Iowa 52733

and a copy to:

Cablevision VII Inc.  
ATTN: State Manager  
2199 Ingersol Ave.  
Des Moines, Iowa 50312-5227

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

44-9 REPEALER. Ordinance C-11A passed May 6th, 1981 is hereby repealed in its entirety, and C-13 shall be retained in its entirety and all other Ordinances or parts of Ordinances in conflict with the provisions of this are hereby repealed.

(Ordinance C-15, Passed March 28, 1995)

44-10 ADOPTION. This franchise renewal was awarded by the City Council on August 8, 2000 and was published as required on August 17, 2000 and therefore, this franchise renewal shall expire August 8, 2005.

(Ordinance C-15A passed October 27, 2000)



## FRANCHISES AND OTHER SERVICES

### CHAPTER 45 CABLE TELEVISION REGULATION

45-1	Purpose	45-32	Discriminatory or Preferential Practices
45-2	Definitions	45-33	Refunds to Subscribers and Programmers
45-3	Granting of Franchise	45-34	Public Service Installations
45-4	Nature of Franchise	45-35	Other Business Activities
45-5	Favored Nation	45-36	Franchise Fee
45-6	Franchise Territory	45-37	Construction and Operation
45-7	Conditions for Franchise Validation	45-38	Construction, Installation and Maintenance
45-8	Renewal of Franchise	45-39	New Developments
45-9	Transfers and Assignments	45-40	Inspection by the City
45-10	Extension of Service	45-41	Testing for Compliance
45-11	System Capacity	45-42	Books and Records
45-12	System Design	45-43	Actions by State or Federal Agencies
45-13	Technical Standards	45-44	Resolution of Disputes
45-14	Initial Geographical Coverage	45-45	Communications with Regulatory Agencies
45-15	Television Broadcast Signals	45-46	Annual Report
45-16	Emergency Alert Override	45-47	Security Fund
45-17	All Channels Emergency Alert	45-48	Violations and Penalties
45-18	Additional Services	45-49	Cancellation and Revocation
45-19	Additional Future Services	45-50	Option to Purchase System
45-20	Additional Services	45-51	Indemnification and Insurance
45-21	Switching Device	45-52	Foreclosure
45-22	Subscriber Privacy	45-53	Receivership
45-23	Underground and Overhead Installations	45-54	Publication of Notice
45-24	Services by Franchisee	45-55	Initial Costs
45-25	Record of Complaints by Franchisee	45-56	Transmission of Documents to City
45-26	City Role in Complaints	45-57	Severability
45-27	Review Sessions	45-58	Repealer
45-28	Rate Regulation	45-59	Effective Date
45-29	Rate Adjustments		
45-30	Disconnections and Terminations		
45-31	Unauthorized Connections or Modifications		

45-1 PURPOSE. The purpose of this Chapter is to specify the requirements for the establishment, construction, installation, operation and maintenance of cable television within the City pursuant to Chapter 364 of the Code of Iowa.

45-2 DEFINITIONS. For the purpose of this Chapter, certain words and phrases are defined as follows:

1. "Additional Service" means a subscriber service for which a special charge is made and which is not included as a part of the basic service provided by a Franchisee.
2. "Administrator" means the City Administrator or, in his absence, his authorized representative.
3. "Applicant" means any prospective Franchisee.
4. "Basic Service" means all subscriber services provided by a Franchisee and covered by the regular monthly charge paid by all subscribers, including the delivery of broadcast signals and programming originating over the system.
5. "Broadcast Signal" means a television or radio signal emanating from an FCC-licensed broadcast facility which is received by a cable television system by means of off-the-air signal, microwave, satellite, or direct connection to a broadcast station.
6. "Cablecasting" means transmitting a non-broadcast signal by a cable television system.
7. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other services to subscribers.
8. "Channel" means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
9. "City" means the City of Durant, Iowa, and, when the context so requires, shall mean and include the City, its council, officers, agents, employees, servants and independent contractors.
10. "Commission" means the Durant cable communications commission, established by Section C-13A-3 of the Chapter.
11. "Connection, Existing" "Existing Connection" means the connection of the cable or wire to a television or radio receiver when the house drop has previously been installed.
12. "Connection, New" "New connection" means the installation of a house drop and the connection of the cable or wire to a television or radio receiver.

13. "Converter" means an electronic device which converts signal carriers from one frequency to another.
14. "Council" means the City Council of the City of Durant, Iowa.
15. "Education Access Channel" means any channel where educational institutions are the designated programmers.
16. "FCC" means the Federal Communications Commission and any successor to the commission.
17. "Franchise" means the rights, privileges and authority granted by the City to a Franchisee and, when the context so requires, shall mean and include the Franchise agreement entered into between the City and a Franchise.
18. "Franchisee" means the person, firm, corporation or other entity granted a Franchise in accordance with the provisions of this Chapter and, when the context so requires, shall mean and include the Franchisee, its officers, agents, employees, servants and independent contractors.
19. "Gross Annual Revenues" means any revenue derived by a Franchisee from or in connection with the operation of a Durant cable system including, but not limited to, basic subscribers service fees, pay channel service fees, installation and re-connection fees, leased channel fees, converter and remote control rentals, studio rentals, production equipment rentals and local advertising revenues. The term does not include any taxes on services provided by a Franchisee and imposed directly upon any subscriber or user by the state, city or other governmental unit and collected by a Franchisee on behalf of said unit.
20. "Head end" means the land, improvements, antennas, towers, electronic processing equipment and other appurtenances normally associated with and located at the starting point of broadband telecommunications network.
21. "Incumbent Operator" shall mean Cablevision VII, Inc., d.b.a. TCI of Eastern Iowa, owning entity of the Franchise.
22. "House Drop" means a coaxial cable that connects a building or residence to the nearest feeder line of the cable network.
23. "Leased Access Channel" means any channel or portion thereof available for lease, on a first-come, first-served basis, including those portions of the other access channels not in use by their designated programmers.
24. "Local Government Access Channel" means any channel where local governments are

the designated programmers.

25. "Local Origination Channel" means any channel where the Franchisee is the designated programmer.
26. "Outlet" means the point of connection of the cable or wire to a television or radio receiver.
27. "Subscriber" means any person, firm, corporation or other entity receiving reception service from the Franchisee.
28. "System" means a cable television system as hereinbefore defined in this section.
29. "User" means any person, firm, corporation or other entity who or which produces or otherwise provides program material for transmission by video, audio, digital or other signals, either live or from recorded tapes by means of the system.

For the purposes of this Chapter, words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular; and the words "shall" and "will" are always mandatory.

45-3 GRANTING OF FRANCHISE. If an applicant submits a proposal acceptable to the City, meets the requirements of this Chapter and those of the FCC, and receives a majority of the votes cast in a Franchise election, the City may then proceed to enter into a nonexclusive Franchise agreement with such prospective Franchisee, subject to the provisions of this Chapter. "A Franchise granted under this Chapter may be renewed by the Franchising Authority upon application of the Franchisee pursuant to Section 626 of the Cable Act of 1984, as amended."

45-4 NATURE OF FRANCHISE. The City shall award the Franchisee a nonexclusive Franchise to construct, erect, operate and maintain upon, along, across, above, over and under the streets, alleys, public ways and public places within the City and any additions thereto, poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the construction, operation and maintenance of a cable television system, and to furnish and to sell service from such system to the residents of the City pursuant to the terms of this Chapter. The City specifically reserves the right to grant a similar Franchise to any other Franchisee at any time.

45-5 FAVORED NATION. In the event the Franchising Authority enters into a Franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the Grantee to enter into the Franchising Authority's streets and Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions there of shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law.

45-6 FRANCHISE TERRITORY. The Franchise territory, also referred to as the service area, shall include the entire corporate limits of the City and any area annexed thereto during the term of the Franchise.

45-7 CONDITIONS FOR FRANCHISE VALIDATION. Prior to the final validation of any Franchise the following conditions shall be met;

1. The applicant shall provide the City Council with evidence of the financial soundness and capabilities reasonably necessary to assure the City that the entire system will be completed within the time specified by Section 6-13-39 of this Chapter.
2. The applicant shall agree to abide by the provisions of this Chapter and all other applicable Ordinances of the City and shall agree not to claim, as against the City, that the provisions of this Chapter are unreasonable, arbitrary or void.
3. Within twenty days after approval by the voters at a Franchise election and approval by the City Council of a Franchise agreement, the applicant and the City may proceed to execute the Franchise.
4. Within sixty days after execution of the Franchise, the Franchisee shall file with the appropriate authorities all applications and other documents necessary to comply with the provisions of this Chapter and the Franchise.
5. Failure of the Franchisee to comply with the provisions of this section shall be grounds for immediate revocation of any rights which the Franchisee may have under the Franchise and for the forfeiture of the Franchisee's security and performance bond.
6. The terms and conditions of section 6-13-9 shall not apply to renewal of an existing franchise.

45-8 RENEWAL OF FRANCHISE. A Franchise granted under this Chapter may be renewed by the City Council upon application of the Franchisee pursuant to the existing rules of the Federal Communications Commission and applicable law.

45-9 TRANSFERS AND ASSIGNMENTS. In order to protect the interests of the City under any Franchise granted pursuant to this Chapter, and in order that the City may exercise its option to take over the property and facilities of the system as authorized herein:

1. The Franchisee'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 Franchisee, without the prior consent of the Franchising Authority, such consent not be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or System

in order to secure indebtedness. Within 30 days of receiving the request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Franchisee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.

2. It shall be a violation of the Franchise for any individual or group of individuals acting in concert to formally or informally authorize any other individual or group of individuals to act as their nominee or to mislead the City Council in any way in regard to the sale, transfer, or disposition of interest in or control of the Franchisee.
2. The restrictions of this section shall be effective immediately upon execution of the Franchise agreement.

45-10 EXTENSION OF SERVICE. The Franchisee shall, at its own expense, promptly extend the system to provide service to all potential subscribers of:

1. Areas newly annexed to the City and not then served by the system where the average density is at least thirty dwelling units and/or business establishments per lineal mile of proposed trunk and feeder-cable route, within 180 days of the effective date of such annexation. When in the opinion of the Franchisee it is not economically feasible to extend service to an area newly annexed to the City, the Franchisee may petition the commission for relief. The commission shall make determinations on such petition based upon the merits of the presentation made by the Franchisee, and the decision of the commission shall be final;
2. Areas of new housing developed within the City;
3. Any new single-family dwelling unit, multiple-dwelling unit, agency and business establishment within the City and within three hundred feet of existing network shall be extended cable simultaneously with electric and telephone utilities;
4. The Franchisee shall file with the City Clerk and the commission its extension policy for potential subscribers located in the City but more than three hundred feet from the nearest point of the existing network. The Franchisee shall not make or refuse any extension to such policy until the same has been approved by the City Council.

45-11 SYSTEM CAPACITY. The system shall have two-way capabilities, shall initially be capable of carrying a minimum of thirty-five (35) channels.

45-12 SYSTEM DESIGN. The Franchisee shall design, engineer and construct its system so that it has capacity for non-voice return communications, and the Franchisee shall make this service available when it becomes practical to do so on other than an experimental basis.

45-13 TECHNICAL STANDARDS.

1. Methods of construction, installation and maintenance of the Cable Television System shall comply with the most recent National Electrical Code adopted by the City, to the extent that such Code is consistent with local law affecting the construction, installation, maintenance of electric supply communications lines. To the extent that such Code is inconsistent with other provisions of this Franchise or with local law, the latter shall govern. The Franchisee must obtain all necessary construction or excavation permits in advance from the City.
2. Any tower constructed for use in the Cable Television system shall comply with the standards contained in Structured Standards for Steel Antenna Towers and Antenna Supporting Structures, EIA Standards RS-222-A, as published by the Engineering Department of the Electronic Industries Association, 2001 "I" Street, N.W., Washington, DC 20006.
3. Installation and physical dimensions of any tower constructed for use in the Cable Television System shall comply with all appropriate Federal Aviation Agency regulations.
4. Any antenna structure used in the Cable Television System shall comply with all appropriate local, state and federal regulations.
5. All working facilities and conditions used during construction, installation, and maintenance of the Cable Television System shall comply with the standards of the Occupational Safety and Health Administration.
6. Whenever a pattern of similar complaints emerges, or where there exists other evidence, which, in the judgment of the City, casts doubt on the reliability or quality of cable service, the City shall have the right and authority to compel the Franchisee to test, analyze, and report on the performance of the system. The City's right under this provision shall be limited to requiring tests, analyses, and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the City has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard cable service.
7. Any special performance tests or measurements required by the City to be taken pursuant to subsection (B) 1. shall be reported to the City within fourteen (14) days after such tests or measurements are performed. Such report shall include the following information: the nature of the complaint which precipitated the special tests; what system component was tested, the equipment used, and procedures employed in said testing; the results of such test; and the method in which such complaints were resolved.

Any other information pertinent to the special test shall be recorded.

Should any of the following occur, the Franchisee must notify the Franchising Authority within thirty (30) days prior to any change regarding:

- a. Addition to, deletion of, or change in received channel.
- b. Addition to, deletion of, or change in distributed channel or in channel conversion.
- c. Change in location of headend or antenna sites.
- d. Addition to or changes in location of centers for origination of programs and the installation of bi-directional facilities or additional lines for connect to the headend.
- e. Interconnection with other cable systems.

The Franchisee must comply with all FCC technical standards.

45-14 INITIAL GEOGRAPHICAL COVERAGE. Initial geographical coverage. The Franchisee shall initially design and construct the system in such a manner as to provide adequate tap-off facilities for each single-family dwelling unit, multiple-dwelling unit, agency and business establishment within the City.

45-15 TELEVISION BROADCAST SIGNALS. The Franchisee shall provide, as a part of its television cable service, the number of television signals consistent with the rules and regulations of the FCC. The system shall be designed, engineered and maintained so as not to interfere with the television and radio reception of residents of the City who are not subscribers to the system.

45-16 EMERGENCY ALERT OVERRIDE. The Franchisee shall incorporate into its facilities, the capability for an emergency override audio alert whereby a designee of the City, in times of emergency may introduce an audio message on all channels simultaneously.

45-17 ALL CHANNELS EMERGENCY ALERT. The Franchisee shall in the case of any emergency or disaster, make its entire system available without charge to the City or to any other governmental or civil defense agency that the City shall designate. The system shall be engineered to provide an audio alert system to allow authorized officials to automatically override the audio signal on all channels and transmit and report emergency information. The system shall also have the capability for visual transmission of emergency messages. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Grantee, its employees, officers, and assigns, harmless from any claims arising out of the emergency use of its facilities by the Franchising Authority, including, but not limited to, reasonable attorneys' fee and costs.

45-18 ADDITIONAL SERVICES. The Franchisee is encourage to:

1. Provide at least one automated time, weather and news channel;
2. Make available such additional video, audio, radio, digital, point-to-point service and other services as may be requested by subscribers who are willing to pay for such



services, provided that such services are technologically and economically feasible.

45-19 **ADDITIONAL FUTURE SERVICES.** The Franchisee is encouraged to develop and operate, as it may become technologically and economically feasible, the following additional channels:

1. An educational access channel;
2. A leased access channel;
3. A local governmental access channel; and
4. A local origination channel.

When the development and operation of any of the above channels becomes feasible, the City Council shall adopt such rules and regulations as may be necessary to implement the development and operation thereof.

- a. As soon as it becomes technologically and economically feasible, the Franchisee shall provide one-way interconnection facilities to interconnect the system with contiguous cable systems, if directed to do so by the City. Interconnection facilities may be effected by direct-cable connection, microwave length, satellite, or any other appropriate method. Interconnection facilities may be required for one, several or all channels of the system. Upon receiving a directive to interconnect, the Franchisee shall not unreasonably impede interconnection if other systems express a willingness to share the cost of such interconnection.
- b. In order to assure future interconnection capability, the Franchisee shall meet the following initial technical requirements:
  - (1) Use of standard frequency allocations for television signals;
  - (2) Use of signal processors at the head end for each television signal, and use of location-origination equipment compatible with video cassettes or video tapes of other systems.

45-20 **ADDITIONAL SERVICES.** The Franchisee is encouraged to make available such additional video, audio, radio, digital, point-to-point service, and other services as are requested by subscribers who are willing to pay for such services, provided that such services are technologically and economically feasible. Should a dispute arise over any matter regarding additional services, the dispute may be resolved in accordance with the provisions of this Chapter relating to methods of resolving disputes. Nothing in this section shall preclude the offering of such new service on a temporary or experimental basis. In addition, public, governmental and educational space shall be reserved in all information services initiated by the Franchisee at the same level as in cable television service.

45-21 SWITCHING DEVICE. The Franchisee, upon request from any subscriber, shall install, at cost, a switching device to permit a subscriber to continue to utilize the subscriber's television antenna. The Franchisee shall not require the removal, or offer to remove, any subscriber's antenna or antenna lead-in wire. In order to restrict the viewing of unwanted programming upon the request of a subscriber, a cable operator shall provide (by sale or lease at a reasonable cost) a device by which the subscriber can prohibit viewing on a particular cable service during periods selected by that subscriber.

45-22 SUBSCRIBER PRIVACY. In order to protect the privacy of subscribers, the Franchisee shall comply with all provisions of Section 631 of the Cable Act of 1992, as amended.

45-23 UNDERGROUND AND OVERHEAD INSTALLATIONS.

1. The Franchisee may lease, rent or otherwise, by mutual agreement, obtain the use of towers, poles, lines, cables and other equipment and facilities from utility companies operating within the City, and may use such towers, poles, lines, cables and other equipment and facilities for the system, subject to all existing and future laws, Ordinances and regulations of the City, passed pursuant to the City's lawful police powers, the state of Iowa and the United States of America. Whenever it is practical, the poles used by the system shall be those erected and maintained by utility companies operating within the City, provided mutually satisfactory rental agreements can be reached. It is the City's desire that all holders of public Franchises within the City cooperate with the Franchisee and allow the Franchisee the use of their poles and pole line facilities whenever possible in order to minimize the number of new or additional poles installed within the City.
2. The Franchisee shall have the right to erect, install and maintain such towers, poles, guys, anchors, underground conduits and manholes as may be necessary for the proper construction and maintenance of the antenna site, the head end, and the distribution system, provided that the location and construction of towers, poles, guys, anchors, underground conduits and manholes placed on City property shall be approved in advance by the Superintendent of the Durant Municipal Electric Plant. In cases of conflict, preference shall be given to more essential utilities and services such as water, power, gas, telephone, sanitary sewer, storm sewer, traffic signals and street lighting.
3. The Franchisee shall have the right to establish terms, conditions and specifications governing the form, type, size, quantity and location of equipment of others on its poles and shall have the further right to charge a fair rental for attachment space or spaces occupied by such equipment of others, except that no rent shall be paid by the City for its attachment to the Franchisee's poles. The City shall pay any costs incurred by the Franchisee in providing space for the City's attachments, including any necessary rearrangements of the Franchisee's equipment to provide room for City attachments. Upon expiration, cancellation or revocation of a Franchise, or if a Franchisee wishes to dispose of any of its poles being used by the City, the City shall have the first option to

purchase such poles in place for their fair market value based upon reproduction cost less depreciation. Upon cancellation or revocation of a Franchise, title to all the Franchisee's underground and overhead conduit and manholes shall pass to the City, unless otherwise agreed in writing by the Franchisee and the City.

4. In those areas of the City where transmission or distribution facilities of any utility company are underground or may hereafter be placed underground, the Franchisee shall likewise construct, operate and maintain all of its transmissions and distribution facilities underground to the maximum extent the then-existing technology permits. If and when necessary, amplifiers and transformers in the Franchisee's transmission and distribution lines may be in appropriate housings on the surface of the ground. Such housings and the location and construction of all work required or to be done pursuant to this section shall be approved in advance by the Superintendent of the Durant Municipal Electric Plant. In all cases, underground installation is preferable to the placing of additional poles.
5. All transmission and distribution structures, lines and equipment erected by the Franchisee in the City shall be located:
  - a. So as not to endanger or interfere with the normal use of streets, alleys, public ways and places;
  - b. So as to cause minimum interference with the rights or reasonable convenience of the general public and adjoining property owners;
  - c. So as not to interfere with existing public utility installations;
  - d. So as to comply with all state and municipal codes and Ordinances and all rules and regulations applicable thereto.
6. The Franchisee shall file maps, plats and records with the City showing the locations and character of all facilities to be constructed, and shall have received prior approval from Administrator for the construction. The Franchisee shall keep and maintain current and accurate maps, plats and permanent records for public inspection.
7. In case of any disturbance of pavement, sidewalks, driveway, lawn or other surfacing, the Franchisee shall, at its expense and in the manner required by the City, promptly replace and restore all such surfacing to its original condition.
8. The City reserves the right, upon reasonable notice, to require the Franchisee, at its expense, to protect, support, temporarily disconnect, relocate or remove the Franchisee's equipment from a particular area of the City's streets, alleys, public ways and public places, if the same is reasonably necessary by reason or traffic conditions, public safety, street construction or vacation, change or establishment of street grades, installation of sewers, drains, water lines, power lines, communication lines, tracks, traffic signals, street lighting or other conditions. For the purpose of this subsection, reasonable notice shall be construed to mean at least thirty days, except in the case of emergencies.

9. The Franchisee shall not place poles, lines, conduits or other fixtures above or below ground where the same would interfere with the poles, lines, conduits or other fixtures of any other public utility, and all such poles, lines, conduits or other fixtures above or below ground shall be so placed as to comply with all the requirements of the City and its Ordinances.
10. The Franchisee shall, upon the request of any persons holding a moving permit issued by the City, temporarily move its lines, conduits or other fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid by the person requesting the same, and the Franchisee shall be given not less than forty-eight hours' advance notice to arrange for such temporary changes.
11. The Franchisee shall have the authority, coextensive with the authority of the City, to trim any trees upon and overhanging the streets, alleys, public ways and public places of the City so as to prevent the branches of such trees from coming in contact with lines and cables of the Franchisee, except that the City may, at its option, do or have such trimming done at the expense of the Franchisee.

#### 45-24 SERVICES BY FRANCHISEE.

1. The Franchisee shall maintain an agent within the City of Durant, at whose office subscribers may make payment for cablevision services. The office shall be one which is open during all usual business hours. The agent may be a local bank, Chamber of Commerce or a similar office. The Franchisee shall also maintain a listed toll free telephone number which shall be so operated that complaints and requests for repairs or adjustments may be received at any time. A card or decal containing the above information, along with the specified procedures for reporting trouble or complaints, shall be provided to all present subscribers and to all new subscribers as they are hooked into the system.
2. The Franchisee shall provide "same-day service" response, seven days a week, for all complaints and requests for repairs or adjustments received prior to two p.m. of any day. In no event shall the response time for calls received subsequent to two p.m. exceed twenty-four hours.
3. Whenever it is necessary to interrupt service over the system for maintenance, alteration or repairs, the Franchisee shall do so at such time as will cause the least amount of inconvenience to the subscribers, and unless such interruption is unforeseen and immediately necessary.
4. Upon failing to correct a service outage within twenty-four hours, the Franchisee shall rebate 1/30th of the monthly charge for basic service and additional service to each subscriber for each twenty-four hours or fraction thereof after the first twenty-four hours

following the report of loss of service to the Franchisee. The Franchisee shall maintain a log of such reports and of the time of restoration of service and this log shall be filed annually with the City.

45-25 RECORD OF COMPLAINTS BY FRANCHISEE. Computer records setting forth the date and substance of each complaint received by phone, mail or other means during the preceding calendar month, if any, the name and address of each complaining party, and the date and nature of action taken by the Franchisee to respond to such complaints, or, if still pending, the status thereof, shall be maintained by the Franchisee and be available to the City for review for two years thereafter.

45-26 CITY ROLE IN COMPLAINTS. Unresolved complaints concerning the system or its operation or maintenance shall be directed to the City Administrator. The Administrator shall forward the complaint to the Franchisee or shall take the question up by correspondence with the Franchisee. Within such time as may be prescribed by the Administrator, the Franchisee shall resolve the complaint or advise the City of its refusal or inability to do so. When the Franchisee resolves the complaint, it shall so notify the City. If a complaint has not been resolved, the complainant may petition the City to take any appropriate action authorized by this Chapter.

45-27 REVIEW SESSIONS.

1. In recognition of the fact that a great many technical, financial, marketing and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the City to provide for a maximum feasible degree of flexibility in the Franchise throughout its term in order to achieve an advanced and modern system for the City. The principle means of accomplishing this flexibility will be the scheduled review sessions provided for in this Chapter. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems which may develop.
2. The City and the Franchisee shall hold scheduled review sessions within thirty days following the third, anniversary date following the issuance of the Franchise. All such review sessions shall be open to the public and notice thereof, specifying the topics to be discussed, shall be published once, not less than ten days nor more than twenty-five days before each such review session, as provided by law. The City and the Franchisee may mutually agree not to hold scheduled review sessions.
3. Special review sessions may be held at any time during the term of the Franchise, providing both the Franchisee and the City agree on the time, place and topics to be reviewed. All such review sessions shall be open to the public upon the same published notice as prescribed in subsection (B) above.
4. The following topics shall be discussed at every scheduled review session:
  - a. Judicial and federal communication rulings;

- b. Service rate structures;
- c. Free and discounted services;
- d. Application of new technology and new developments;
- e. System performance;
- f. System extension policy;
- g. Services provided;
- h. Programming offered;
- i. Customer complaints;
- j. Privacy and human rights;
- k. Amendments to the permit;
- l. Community development and education;
- m. Interconnection;
- n. Underground progress;
- o. Insurance; and
- p. New services;
- q. Franchise Fees.

Other topics, in addition to those listed, may be added by either the City, the Franchisee or the public.

5. The City, in its discretion and in cooperation with the Franchisee, may utilize the services of a consultant to gain additional information for use during any review session and/or rate hearings, mediation and arbitration sessions.

45-28 RATE REGULATION. The City reserves the right to regulate rates to the extent expressly permitted by Federal Law and FCC regulations.

45-29 RATE ADJUSTMENTS. Any rate adjustments shall be filed with the Franchising Authority not later than 30 days prior to the implementation of the adjustment.

45-30 DISCONNECTIONS AND TERMINATIONS.

1. There shall be no charge for disconnection of any installation. If any subscriber fails to pay any fee or charge, the Franchisee may disconnect the subscriber's service. Such disconnection shall not be effected until the subscriber has been given ten days' advance written notice of the intention to disconnect. After disconnection and upon the payment of all delinquent fees and re-connection charges, the Franchisee shall promptly reinstate the subscriber's service.
2. Upon the termination of service to any subscriber for any reason, the Franchisee shall, upon the subscriber's written request, promptly remove all its facilities and equipment from the subscriber's premises without charge, provided that, where the subscriber is a lessee of the premises, the facilities and equipment shall not be removed without the lessor's consent.

45-31 UNAUTHORIZED CONNECTIONS OR MODIFICATIONS.

1. It shall be unlawful for any person, firm, group, corporation or other entity to make any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system for any purpose whatsoever without the express consent of the Franchisee.
2. It shall be unlawful for any person, firm, group, corporation or other entity to willfully interfere with, tamper with, remove, obstruct or damage any part, segment or content of the system for any purpose whatsoever.
3. In addition to those criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any person, firm or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise with any part of the Cable System without the express consent of the Grantee. Further, without the express consent of Grantee, it shall be a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the Cable System or any means of receiving Cable Service or other services provided thereto. Subject to applicable federal and state law, the Franchising Authority may incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which will enforce the intent of this section. All legal fees for the enforcement of this section shall be paid by the Franchisee.

45-31 DISCRIMINATORY OR PREFERENTIAL PRACTICES. The Franchisee shall not, in making available the services or facilities of its system, or in its rules or regulations, or in any other manner, make or grant preferences or advantages to any subscriber or potential subscriber, or to any user or potential user, and shall not subject any person to any prejudice or disadvantage, based on their race, color, national origin or gender. This provision shall not prohibit promotional campaigns to stimulate subscriptions to the system or other legitimate uses thereof, nor the establishment of a graduated scale of charges and classified rate schedules to which any subscriber coming within such classification shall be entitled.

45-32 REFUNDS TO SUBSCRIBERS AND PROGRAMMERS.

1. If the Franchisee fails to provide any material service requested by a subscriber in accordance with the standards set forth in this Chapter, the Franchisee shall, after adequate notification and being afforded the opportunity of providing the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber.
2. If any subscriber terminates the service for any reason, the Franchisee shall refund the unused portion of any prepaid subscriber service fee on a daily pro-rata basis.

45-33 PUBLIC SERVICE INSTALLATIONS. The Franchisee shall, without charge for installation, maintenance or service, install a single subscriber outlet for basic and expanded basic service} at each public building and school building within the City. Such installations shall be made

at such reasonable locations as may be requested by the respective units of government or educational institutions. Any charge for relocation of such installations shall be made at actual cost. Additional installations at the same location may be made at cost plus ten percent. No charges shall be made for distribution of the Franchisee's services within such public buildings.

45-34 OTHER BUSINESS ACTIVITIES. The Franchisee shall not engage in the business of selling, repairing or installing television receivers, excluding converters, within the City during the term of its Franchise. Nothing herein shall be deemed to prohibit Franchisee, at the request of a subscriber and without payment, from examining and adjusting a subscriber's receiver to determine whether reception difficulties originate in the receiver or in the system.

45-35 FRANCHISE FEE. As compensation for the Franchise granted herein and in consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a system within the City, the Franchisee shall pay to the City an annual amount equal to five (5) percent of the Franchisee Gross Annual Revenues as defined in Section 6-13-2 of this Ordinance, however that such amount shall not include any taxes on Cable Service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Franchisee on behalf of such governmental unit or agency. This includes, but is not limited to, all subscribers' payments, installation fees, converter boxes, local advertising, leased access channels, pay-per-view and cable service exchanged in barter agreements. All funds due to the City pursuant to this subsection shall be deposited into the general fund of the City. Payment due to the City under this provision shall be made quarterly at the City Clerk's Office not later than 45 days following March 31, June 30, September 30 and December 31 each year. Any fee not paid when due shall bear interest at a rate of one and one-half percent (1 1/2%) per month from the date due. Each payment shall be accompanied by a detailed report showing the basis for the computation, specific income categories and such other relevant facts as may be required by the City. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the Franchisee. All amounts paid shall be subject to audit by the City.

45-36 CONSTRUCTION AND OPERATION TIMETABLE.

1. The Franchisee shall commence construction of the system not later than thirty days after the issuance of the Franchise. The Franchisee shall conduct any engineering studies necessary to permit the commencement of construction within thirty days after issuance of a Franchise. Within two years after construction commences, the Franchisee shall complete construction of the system within the City.
2. Within one year after issuance of a Franchise, the Franchisee shall make its services available to at least fifty percent of the potential subscriber terminals within the City. Within two years after issuance of a Franchise, the Franchisee shall make its services available to all of the potential subscribers within the City.



45-37 CONSTRUCTION, INSTALLATION AND MAINTENANCE. The system shall be constructed, installed and maintained by the Franchisee in accordance with the following:

1. Generally accepted practices not inconsistent with applicable laws and Ordinances;
2. Such rules and regulations as may subsequently be established by City Council Ordinance passed pursuant to the City's lawful police powers.

45-38 NEW DEVELOPMENTS. The Franchisee is encouraged to upgrade its facilities, equipment, and service so that its system is as advanced as the current state of production technology will allow. Such new developments shall be a topic of discussion at all review sessions and shall be a factor to be considered in connection with requests for rate adjustments.

45-39 INSPECTION BY THE CITY. The City shall have the right to inspect all construction and installation work performed pursuant to the provisions of this Chapter and to make such inspections as it may deem necessary to ensure compliance with the terms of this Chapter and all other applicable laws and Ordinances.

45-40 TESTING FOR COMPLIANCE. The Franchising Authority may perform technical tests of the system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Franchisee or the system in order to determine whether or not the Franchisee is in compliance with the terms hereof and applicable state or federal laws. Except in emergency circumstances, such test may be undertaken only after giving the Franchisee reasonable notice thereof, not to be less than two business days and providing a representative of the Franchisee an opportunity to be present during such tests. In the event that such testing demonstrates that the Franchisee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Franchisee. In the event that such testing demonstrates that the Franchisee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the Franchising Authority. Except in emergency circumstances, the Franchising Authority agrees that such testing shall be undertaken no more than once a year, and that the results thereof shall be made available to the Franchisee.

45-41 BOOKS AND RECORDS. The Franchisee agrees that the Franchising Authority upon reasonable written notice to the Franchisee may review such of its books and records at the Franchisee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Franchisee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, the Franchisee shall not be required to make available such information and records which it reasonably deems to be proprietary or confidential in nature, under federal or state rules of evidence. The Franchising Authority agrees to treat any information disclosed by the Franchisee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or order to enforce the provisions hereof. The Franchisee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

45-42 ACTIONS BY STATE OR FEDERAL AGENCIES. If the State of Iowa, the FCC or any

other agency of the federal government should subsequently require the Franchisee to deliver any signals in addition to those required by this Chapter, or to perform or cease to perform any act which is inconsistent with any provisions of this Chapter, the Franchisee shall so notify the City.

45-43 RESOLUTION OF DISPUTES.

1. It is the City's intent to provide for the orderly resolution of any controversy or dispute between the Franchisee and the City arising out of the enforcement or interpretation of any provision of this Chapter, the Franchise, or any rule, regulation or procedure relating to cable communication matters. Mediation and fact-finding shall be the means of resolving such controversies or disputes, but neither of these methods shall be the first resort of the parties but shall be undertaken only after a reasonable time and a good-faith effort to reach agreement by negotiation.
2. Mediation. Any controversy or dispute shall, at the election of either the Franchisee or the City, be submitted to an expert mediator acceptable to both the Franchisee and the City for the purposes of facilitating discussions and receiving new perspectives on the issues and new proposals for compromise. Such mediation shall not be binding on either party. All fees and other expenses relating to such mediation shall be borne equally by the Franchisee and the City.
3. Fact-finding. Any controversy or dispute shall, at the election of either the Franchisee or the City, be submitted to an expert fact-finder acceptable to both parties for an investigation of the facts and a report thereon. Such fact-finding shall be for the purpose of developing better information for the use of both parties and shall not be binding on either party. All fees and other expenses relating to such fact-finding shall be borne equally by the Franchisee and the City.
4. Mediator or Fact-finder Selection Procedures. In either mediation or fact-finding, both parties shall present a list of acceptable experts. If no agreement is reached, a judge of the Cedar County district court shall select the expert.

45-44 COMMUNICATIONS WITH REGULATORY AGENCIES. Copies of all petitions, applications, communications, reports and other documents submitted by the Franchisee to the FCC, Securities and Exchange Commission or other federal or state regulatory commissions or agencies shall also be made available to the City upon written request.

45-45 ANNUAL REPORT. No later than ninety days after the close of the Franchisee's fiscal year, the Franchisee shall submit a written report to the City, which report shall include the following information:

1. A summary of the previous year's activities in the development of the system, including services begun or dropped and subscribers gained or lost;
2. A detailed revenue statement including a breakdown of all revenue sources upon which

the City can verify Franchise Fee accuracy.

3. A current statement on the cost of construction by project categories.
4. A summary of complaints, identifying the number and specific nature of complaints and their disposition.
5. A list of key management for the Durant Franchise along with their job titles.
6. The annual report of the parent company if a public corporation.
7. A summary of types of communication signals and services provided without charge or provided under a barter arrangement along with their dollar equivalent.

45-46 SECURITY FUND.

1. Within ten days after the execution of the Franchise, the Franchisee shall deposit with the City Clerk and maintain on deposit throughout the term of the Franchise, the sum of five thousand dollars as security for the faithful performance of the provisions of the Franchise, the compliance with the provisions of this Chapter and all orders, permits and directions of the City and of any agency of the City having jurisdiction over its acts or defaults under the Franchise or this Chapter, and its payment of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the system.
2. Within ten days after notice that any amount has been withdrawn from the security fund deposited pursuant to subsection (A) above, the Franchisee shall deposit with the City Clerk a sum of money sufficient to restore the security fund to the original sum of five thousand dollars.
3. If the Franchisee fails to pay to the City any compensation within the time fixed herein, or fails to pay to the City, after ten days' notice, any taxes due and unpaid, or fails to repay to the City, after ten days' notice, any damages, costs or expenses which the City may be compelled to pay by reason of any act or default of the Franchisee in connection with the Franchise, or fails, after three days' notice, to comply with any provision of the Franchise which the City Council reasonably determines can be remedied by an expenditure from the security fund, the City may immediately withdraw the amount thereof, with interest and any penalties, and, upon such withdrawal, the City Clerk shall notify the Franchisee of the amount and date thereof.
4. The security fund deposited pursuant to this section shall become the property of the City in the event the Franchise is canceled by reason of the default of the Franchisee.
5. At the expiration of the Franchise, the Franchisee shall be entitled to the return of the

security fund or the portion thereof then remaining on deposit, provided that there is then no outstanding default on the part of the Franchisee. Interest earned by the investment of the security fund shall accrue to the Franchisee.

6. The rights reserved to the City with respect to the security fund are in addition to all other rights of the City, whether reserved by the Franchise or authorized by law; and no action, proceeding or exercise of a right with respect to such security fund shall affect any other rights which the City may have.
7. In lieu of any bonds and other surety required of the Franchisee herein or other Franchise document with the Franchising Authority, Franchising Authority may accept a guarantee in lieu of bond from parent corporation of an incumbent Franchisees, in form and substance reasonably satisfactory to the Franchising Authority.

#### 45-47 VIOLATIONS AND PENALTIES.

1. Violations. For violations of the provisions of this Chapter, penalties shall be chargeable to the security fund as follows:
  - a. For failure to obtain prior City approval regarding installation of various parts of the system pursuant to this Chapter, the sum of two hundred dollars (\$200) per day;
  - b. For failure to commence operations in accordance with this Chapter, unless the commission approves the delay for reasons beyond the control of the Franchisee, the sum of four hundred dollars (\$400) per day;
  - c. For failure to complete construction and installation of the system as provided for in this Chapter, unless the commission approves the delay for reasons beyond the control of the Franchisee, the sum of one thousand hundred dollars (\$1000) per day;
  - d. For failure to provide data and reports as requested by the administrator and as required by this Chapter, the sum of one hundred dollars (\$100) per day;
  - e. For failure to restore the security fund as required by this Chapter, the entire security fund remaining shall be forfeited.
2. Penalty for Inadequate Service. In the event the system fails to meet FCC minimum performance standards for a full three-month period, the Franchisee shall reduce all subscriber's fees by twenty-five percent until all performance standards are met. The City shall notify the Franchisee during the first month of the three-month period that the system has failed to meet performance standards.
3. The Franchisee shall not be relieved of its obligations to comply with the provisions of this Chapter by reason of the City's failure to enforce prompt compliance.

#### 45-48 CANCELLATION AND REVOCATION.

1. The City shall have the right to cancel the Franchise if the Franchisee fails to comply with any material and substantial provision of the Franchise, or of this Chapter. The

City shall notify the Franchisee of the alleged failure and shall give the Franchisee a reasonable opportunity to remedy the same. If the Franchisee does not remedy the alleged failure, the City Council may, after holding a public hearing on published notice pursuant to law and written notice to the Franchisee, cancel the Franchisee.

2. If the system or any part thereof is inoperative for ten consecutive days or for thirty days out of any consecutive twelve months, the City may cancel the Franchisee.
3. The Franchisee shall not be declared in default or be subject to any sanction under this Chapter where the Franchisee's performance is prevented for reasons reasonably beyond its control.
4. The Franchisee shall not be entitled to damages from the City sustained by virtue of he closing, vacation or relocation of any streets, alleys, public ways or public places within the City.

45-49 OPTION TO PURCHASE SYSTEM. Upon cancellation or expiration of the Franchise, the City may, in a lawful manner and upon payment in readily available funds, purchase the system for a price equal to its fair market value. The fair market value shall be determined by an independent organization acceptable to both parties in accordance with generally accepted cable television appraisal and accounting principles. The original cost of all tangible and intangible property, as well as salvage value, the book value, and replacement cost, cash flow, and other factors may be considered. If the City elects to purchase the system, the Franchisee shall promptly execute all documents necessary to transfer title to the City and shall assign all of the contracts, leases, licenses, permits, and any other rights necessary to maintain continuity of service to the public. The Franchisee shall cooperate with the City to operate the system for a temporary period, in maintaining continuity of service. Upon the cancellation, revocation or expiration of the Franchise, the City shall have the right to require the Franchisee, to remove at its expense, all portions of the system from all streets, alleys, public ways and public places within the City. Nothing herein intended as a waiver of any rights the City may have.

45-50 INDEMNIFICATION AND INSURANCE.

1. The Franchisee shall at all times defend, indemnify, protect and hold the City harmless from and against any and all liability, losses and damages to property or bodily injury or death to any person, including payments made under workmen's compensation laws, which may arise out of or be caused by the construction, installation, replacement, removal, maintenance or operation of the system and caused by any act or failure to act on the part of the Franchisee, its officers, agents, employees, servants and independent contractors. The Franchisee shall hold the City harmless from and against any damages resulting from legal action which may be brought against it in connection with the construction, installation or operation of the system within the City and shall defend, at its own expense, any action brought against the City by reason of the construction, installation, replacement, removal, maintenance or operation of the system.
2. The Franchisee shall maintain insurance in such amounts and kinds of coverage as may be specified by the City in the Franchise. The Franchisee shall maintain such insurance

with insurance companies authorized to do business in the State of Iowa. All policies shall name the City, its City Council, officers, employees, servants and agents as additional insureds. A Certificate of Insurance, listing the amounts and kinds of coverage specified by the Franchising Authority, shall be filed with the City. The City shall receive 30 days prior notice of intent to cancel or alter required coverage.

45-51 FORECLOSURE. A foreclosure or other judicial sale of all or any part of the system shall be treated as a change in control of the Franchisee and the provisions of Section 6-13-11, and all other relevant provisions of this Chapter shall then be applicable.

45-52 RECEIVERSHIP. The City shall have the right to cancel the Franchise described in this Chapter one hundred twenty days after the appointment of a receiver or trustee, and to then take over and conduct the business of the Franchisee, whether in receivership, reorganization, bankruptcy or other proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty days, or unless, within one hundred twenty days after his election or appointment, such receiver or trustee shall:

1. Have fully complied with all the provisions of the Franchise and of this Chapter and remedied all defaults thereunder; and
2. Have executed an agreement, approved by the court having jurisdiction, whereby such receiver or trustee agrees to the provisions of the Franchise and of this Chapter.

45-53 PUBLICATION OF NOTICE. Whenever any provision of this Chapter requires that notice be published, such notice shall be prepared by the City, and published by the City. The costs of such publications shall be paid by the Franchisee.

45-54 INITIAL COSTS. The Franchisee shall pay the costs for any Franchise election.

45-55 TRANSMISSION OF DOCUMENTS TO CITY. Unless otherwise specifically provided, whenever the provisions of this Chapter require transmission of documents from the Franchisee to the City, such documents shall be mailed or delivered to the office of the City Clerk, City Hall, Durant, Iowa, or to such other person as the City may in writing designate.

45-56 SEVERABILITY. If any section, subsection, provision or part of this Chapter is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this Chapter as a whole or any section, subsection, provision or part thereof not adjudged invalid or unconstitutional. In the event the FCC declares any such section, subsection, provision or part of this Chapter invalid, then the same shall be renegotiated by the City and the Franchisee.

45-57 REPEALER. Ordinance C-11A passed May 6th, 1981 is hereby repealed in its entirety. Ordinance C-13 shall be retained in its entirety and all other Ordinances or parts of Ordinances in conflict with the provisions of this Chapter are repealed.

## FRANCHISES AND OTHER SERVICES

### CHAPTER 46 CABLE TELEVISION RATE REGULATION

46-9 Effective Date

- 46-1 Purpose
- 46-2 Authorization
- 46-3 Opportunity to be Heard
- 46-4 Certification
- 46-5 Notice of Rate Change
- 46-6 Delegation of Authority
- 46-7 Severability Clause
- 46-8 Repealer

46-1 **PURPOSE.** The purpose of this Ordinance is to establish a Local Law concerning the regulation of rates charged by cable television operators for the basic service tier and related equipment, and for the cable programming service tier and related equipment.

46-2 **AUTHORIZATION.** The City of Durant (hereinafter also referred to as the Franchising Authority) has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission, concerning Cable Rate Regulation, 47 C.F.R. §§ 76.900 et seq., as they currently read and hereafter may be amended, which are herewith incorporated by reference.

46-3 **OPPORTUNITY TO BE HEARD.** Any rate regulation proceedings conducted under Section 1 hereto shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the Franchising Authority or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and the City of Durant for such proceedings, and in order to provide for such opportunity for consideration of the views of any interested party, the Franchising Authority shall take the following actions:

1. Franchising Authority shall publish in a local newspaper; post in a conspicuous place in Durant City Hall, and mail, by certified mail, to the Cable Operator a Public Notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.

2. Said Public Notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the Federal Communications Commission ("FCC"); and that the decision of the Franchising Authority is subject to review by the FCC.

3. The Franchising Authority shall conduct a public proceeding to determine whether or not the rates or proposed rate increase are reasonable. The Franchising Authority may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the Franchising Authority or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may toll the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give Public Notice accordingly.

4. In the course of the rate regulation proceeding, the Franchising Authority may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of Affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry. The Franchising Authority may request proprietary information, provided that the Franchising Authority shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the cable operator. The Franchising Authority may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and of the City of Durant to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

5. Upon termination of the rate regulation proceeding, the Franchising authority shall adopt and release a written decision as to whether or not the rates or proposed rate increase are reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

6. The Franchising Authority may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase. However, the Franchising Authority may impose fines or monetary forfeitures on a Cable Operator that does not comply with a rate decision or refund order of the Franchising Authority, directed specifically at the Cable Operator, pursuant to the laws of the State of Iowa and Codes, Rules and Regulations of this City.

7. Consistent with FCC Rules and Regulations, the Franchising Authority's decision may be reviewed only by the FCC.



8. The Franchising Authority shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the laws of the State of Iowa, the communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of Affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

46-4 CERTIFICATION. The Franchising Authority shall file with the FCC the required Certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the Franchising Authority shall notify the cable operator the Franchising Authority has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

46-5 NOTICE OF RATE CHANGE. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the Franchising Authority is not empowered to exercise rate regulation, the Cable Operator shall give notice to the Franchising Authority of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said Notice shall be provided within five (5) business days after the change becomes effective.

46-6 DELEGATION OF AUTHORITY. The Franchising Authority may delegate its powers to enforce this Law to municipal employees or officers ("cable official"). The cable official will have the authority to:

1. Administer oaths and affirmations;
2. Issue subpoenas;
3. Examine witnesses;
4. Rule upon questions of evidence;
5. Take or cause depositions to be taken;
6. Conduct proceedings in accordance with this law;
7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and

9. Take actions and make decisions or recommend decisions in conformity with this law.

46-7 SEVERABILITY CLAUSE. If any section, provision or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not effect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

46-8 REPEALER. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

46-9 EFFECTIVE DATE. The Ordinance shall be in full force and effect following its final passage, approval and publication as provided by law.

(Ordinance C-13, Passed November)

**REFUSE COLLECTION**  
**CHAPTER 47 REFUSE COLLECTION**

- 47-1 Purpose
- 47-2 Definitions
- 47-3 Collection
- 47-4 Separation of Yard Wastes Required
  
- 47-5 Refuse Collection Rates

47-1 PURPOSE. The purpose of this Ordinance is to provide for the sanitation 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 uncontrolled disposal of solid waste.

47-2 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. "Agency" shall mean the person, firm, or organization authorized by the City Council to collect solid waste on behalf of the City.
2. "Hazardous materials" shall include explosive materials, materials contaminated by infectious or contagious disease, fly ash or other fine or powdery material, and other material which may present a special hazard to sanitary landfill personnel, equipment or to the public.
3. "Owner" shall, in addition to the record titleholder, include any person residing in, renting, leasing, occupying, operating or transacting business in any premises, as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
4. "Person" shall mean an individual, firm, partnership, domestic or foreign corporation, company, association, trust or other legal entity, and includes a trustee, receiver, assignee or similar representative thereof, but does not include a governmental body.
5. "Residential premises" shall mean single family dwellings and any multiple family dwelling.
6. "Sanitary disposal" shall mean a method of treating and handling solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.
7. "Sanitary disposal project" shall mean 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 executive director of the Department of Natural Resources.

8. "Sanitary Landfill" shall mean a method of disposing refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary so that no nuisance or hazard to the public health is created.
9. "Site" shall mean any location, place or tract of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes.
10. "Solid waste" shall mean garbage, refuse, rubbish and other similar discarded solid or commercial, agricultural, and domestic activities. Solid waste may include vehicles.
11. "Solid waste collection" shall mean the gathering of solid waste from public and private places.
12. "Solid waste transportation" shall mean the conveying of solid waste from one place to another by means of vehicle, rail car, water vessel, conveyor or other means.
13. "Yard wastes" means grass, leaves, and garden debris.

#### 47-3 COLLECTION.

1. Agency Collection. By virtue of an agreement entered into between the City and the Agency, the Agency has proposed to provide solid waste collection service for and on behalf of the City, to remove solid wastes from residential premises.
  - a. Such collections shall be made not less than once a week, at times and in areas of the City as shall be set out in schedules agreed upon by the City and the Agency.
  - b. The City is authorized and empowered to change or amend such schedules from time to time as it shall deem necessary.
  - c. Collections may be either from streets or alleys, where existing, at the discretion of the City.
  - d. Containers shall be placed out-of-doors at some easily accessible place. The provision of such containers and the placement thereof for collection shall be the responsibility of the owners of the residential premises to be served.
2. Accumulations Hazardous to Health. It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation

hazard.

3. Accumulations Hazardous to Property. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a health or fire hazard.
4. Protection Required. No person shall haul any solid wastes upon the streets, alleys or public places of the City in any manner except in a vehicle or container so equipped as to prevent the blowing or leakage or dropping off of any of the contents on the public streets or ways of the City or private property therein.
5. Disposal Site Requirements. No person shall haul or cause to be hauled any solid waste material of any kind, other than those resulting from construction or demolition activities, to any disposal place or site or area within the corporate limits of the City unless such place, site or area has been properly zoned for such use and any permits required by such zoning obtained.
6. Hazardous Materials. No person shall deposit in a solid waste container or otherwise offer for Agency collection any hazardous solid waste. Hazardous materials shall be transported by the owner, responsible person or his or her agent, to a place of safe deposit or disposal as prescribed by the Health officer or the officer's authorized representative which place of deposit or disposal may in exceptional cases be a place other than an Agency operated site or otherwise subject to special conditions or limitations.
7. Prohibition of Littering. No person shall throw, rake, deposit, drop or spill litter, waste material or foreign material upon the streets, sidewalks or other public rights-of-way or into drainage systems or waterways within the City.

47-4 SEPARATION OF YARD WASTES REQUIRED. All yard wastes shall be separated by the owner from all other solid waste accumulated on the premises and disposed of according to procedures required by the City.

47-5 REFUSE COLLECTION RATES. Each dwelling unit in the City shall be responsible to pay refuse collection fees to the City as provided in this section. "Dwelling Unit" shall include but not limited to owner occupied residences, apartments, or any dwelling unit of any kind as defined in Section 562A.6 (3) of the Code of Iowa. The refuse rate shall be collected by the City for its services collecting garbage and rubbish, and the following mandatory fees are hereby established:

Residence and Commercial Rate. For each resident with pickup, \$16 per month for one weekly garbage collection of a 35 or 65 gallon refuse cart or \$18 per month for one weekly garbage collection of the 95 gallon refuse cart each week. Each landlord shall require each residential tenant to obtain and utilize a refuse cart of appropriate size for each dwelling unit. The City shall collect the refuse collection rate provided for in this section for every dwelling unit, which is being provided any water or sewer service by the City. It shall not be a defense to being billed for refuse

collection to maintain a dwelling unit is unoccupied. However, in their sole and absolute discretion, the City Administrator or City Clerk may accept an application by a landlord which clearly establishes that a certain dwelling unit is not occupied and may forgive the refuse collection charge provided in this section for such period of time that the dwelling unit is not occupied for any portion or any month, the entire appropriate refuse collection fee for the month shall be collected for such dwelling unit.

## **STREETS AND SIDEWALKS**

### **CHAPTER 48 STREET CUTS AND EXCAVATIONS**

- 48-1 Excavation Permit Required
- 48-2 Application for Permit
- 48-3 Permit Fees
- 48-4 Safety Measures
- 48-5 Backfilling and Restoration
- 48-6 Rules and Regulations

48-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

48-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the City Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The City Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

48-3 PERMIT FEES. The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding 100 feet in length. An additional fee of \$15.00 shall be required for every additional 100 feet, or major fraction thereof, of main excavation.

48-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall

likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Chief of Police the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

48-5 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the Public Works Director is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

48-6 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

(Ordinance C-8)

(Ordinance C-9, Passed May 14, 1991)



## STREETS AND SIDEWALKS

### CHAPTER 49 VACATED STREETS AND ALLEYS

49-1	Purpose
49-2	Facts Found
49-3	Vacation
49-4	Vacating a Portion of Twelfth Avenue
49-5	Vacating a Portion of Seventh Avenue
49-6	Purpose
49-7	Easement Vacated
49-8	New Easement

49-1 PURPOSE. The purpose of this is to vacate the described portion of the street and thereby relieve the City of Durant, Iowa, of the responsibility for its maintenance and supervision.

49-2 FACTS FOUNDS. The City Council of the City of Durant hereby makes the following findings:

1. The described portion of the street is not needed for the use of the public, and therefore its maintenance at public expense is no longer justified.
2. The vacation will not deny owners of property abutting on the portion of the street reasonable access to their property.
3. Notice of the intended vacation, including the date on which the City Council would first consider the vacating, has been published and a public hearing thereupon has been held.

49-3 VACATION. Commencing at the point where the Westerly line of 8th Avenue intersects with the Northerly line of 4th Street in the City of Durant thence Westerly along the Northerly line of 4th Street a distance of two hundred (200) feet; thence Southerly a distance of fifteen (15) feet, thence Easterly parallel to the Northerly right of way line of 4th Street a distance of two hundred (200) feet; thence Northerly a distance of fifteen (15) feet to the point of beginning be and the same is hereby declared vacated as a public street.

(Ordinance G-1, Passed December 27, 1988)

49-4 VACATING A PORTION OF TWELFTH AVENUE. The following described portions of Twelfth Avenue in the City of Durant, Cedar County, Iowa, are vacated:

Part of Twelfth Avenue, described as follows: Commencing at the Southeast corner of Lot 10, Block 49 of the Original Town of Durant, Iowa (the Point of Beginning); thence Northeasterly along the Westerly Right of Way Line of Twelfth Avenue to its intersection with the Southerly Right of Way line of the Railroad, thence Southeasterly along the Right of Way of said Railroad to the Easterly Right of Way line of said Twelfth Avenue, thence Southwesterly along the Easterly Right of Way line of Twelfth Avenue to the Southwest corner of Lot 6, Block 48 of the Original Town of Durant, Iowa, thence Westerly 80 feet more or less along the Northerly Right of Way line of Fourth Street to the Point of Beginning, all in the City of Durant, Cedar County, Iowa.

(Ordinance G-2, Passed August 11, 1992)

49-5 VACATING A PORTIONS OF SEVENTH AVENUE. The following described portions of Seventh Avenue in the City of Durant, Cedar County, Iowa are vacated:

Part of Seventh Avenue described as follows: Commencing at the northeast corner of a tract of land in the Southwest Quarter of Section 36, Township 79 North, Range 1 West of the 5<sup>th</sup> P.M. in the Original Town of Durant, Cedar County, Iowa (Point of Beginning); thence southeasterly a distance of twenty (20) feet along the southerly right-of-way Line of Fifth Street (Iowa Highway 927, old U.S. Highway 6), thence southerly and parallel to the easterly property line of a tract of land located in the Southwest Quarter of Section 36, Township 79 North, Range 1 West of the 5<sup>th</sup> P.M. in the original Town of Durant, Cedar County, Iowa, a distance of one hundred (100) feet more or less to the northerly right-of-way line of the Railroad, thence northwesterly a distance of twenty (20) feet along the north right-of-way line of the railroad to the southeast corner of a tract of land located in the Southwest Quarter of Section 36, Township 79 North, Range 1 West of the 5<sup>th</sup> P.M. in the Original Town of Durant, Cedar County, Iowa, thence northeasterly a distance of one hundred (100) feet along the east property line of said tract of land located in the Southwest Quarter of Section 36, Township 79 North, Range 1 West of the 5<sup>th</sup> P.M. in the Original Town of Durant to the Point of Beginning, all in the City of Durant, Cedar County, Iowa. The City of Durant reserves a perpetual easement over all of the above described property for overhead electric lines, cable television lines, telephone lines and other overhead public uses.

Any or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

49-6 PURPOSE. The purpose of this Ordinance is to vacate the utility easement on the North 10 feet of Lot 1 of the Durant Industrial Park Second Addition.

49-7 EASEMENT VACATED. The utility easement on the north 10 feet of Lot 1 of the Durant Industrial Park Second Addition is hereby vacated by the City of Durant.

49-8 NEW EASEMENT. The Mayor and City Clerk are authorized to sign and publish this Ordinance following completion of the dedication of a utility easement on the easterly, northerly, and westerly 10 feet of the following described parcel of real estate:

A utility easement located on the East 10 feet, West 10 feet and Northerly 10 feet on boundary lines of the following described real estate in Cedar County, Iowa:

Part of the Northeast Quarter of Section 35, Township 79 North, Range 1 West of the Fifth Principal Meridian, City of Durant, Cedar County, Iowa, described as follows:

Beginning at the Northwest corner of Lot 1, Durant Industrial Park Second Addition, Durant, Iowa; thence N. 00° 32' 20" W. on the West line of said Northeast Quarter, a distance of 73.53 feet, to a point in said West Line; thence S. 86° 22' 17" E. a distance of 401.27 feet; thence S. 00° 08' 10" E. to the Northeast corner of said Lot 1, as distance of 46.35 feet; thence N. 89° 44' 38" W. in the North line of said Lot 1, a distance of 399.58 feet to the Point of Beginning; containing 23,980.78 square feet of 0.551 acres, more or less.

## **STREETS AND SIDEWALKS**

### **CHAPTER 50 SIDEWALK REGULATIONS**

- 50-1 Purpose
- 50-2 Construction of Sidewalk
- 50-3 Repair, Replacement or Reconstruction by Property Owner(s)
- 50-4 Removal of Snow, Ice and Accumulations
- 50-5 Penalty

50-1 **PURPOSE.** The purpose of this Ordinance is to specify the procedure to be followed by the City Council in ordering the repair, the replacement or reconstruction of sidewalks.

50-2 **CONSTRUCTION OF SIDEWALK.** All sidewalks within the City of Durant shall be constructed of portland concrete and shall be four (4) feet in width and shall be located within the inside edge three (3) feet outside the property line with a minimum depth of four inches. A permit is required. All new sidewalks in subdivisions shall be

50-3 **REPAIR, REPLACEMENT OR RECONSTRUCTION BY PROPERTY OWNER(S).**

1. The City Council may serve notice on the abutting property owner by certified mail to the property owner as shown by the records of the County Auditor, requiring the owner to repair, replace or reconstruct sidewalks.
2. If the abutting property owner does not perform the action required under Section 3-1 of this Chapter within a reasonable time, the City Council may perform the required action and assess the costs against the abutting property for collection in the same manner as property taxes.

50-4 **REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It shall be 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 from the end of the snow or ice event, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. Property owners will be billed \$25 per hour plus a \$50 administration fee.

50-5 **PENALTY.** Anyone violating any of the provisions of this Ordinance shall, upon conviction, be subject to imprisonment or fine and subject to the provisions for municipal infractions as provided for in Chapter 1-3 of this Code of Ordinances. (Ordinance C-8)

**PROPERTY REGULATION**

**CHAPTER 51 BUILDING CODE(S)**

- 51-1 Short Title
- 51-2 Adoption of State Building Code(s)
- 51-3 Fees

51-1 SHORT TITLE. This Ordinance shall be known as the Durant, Iowa, Building Code, Electrical Code, Plumbing and Mechanical Code, and the International Fuel Gas Code, and may be cited as such, and will be referred to as cited above.

51-2: ADOPTION OF STATE BUILDING CODE, ELECTRICAL, PLUMBING & MECHANICAL, AND INTERNATIONAL FUEL GAS CODE. Pursuant to published notice and public hearing, as required by law, the International Building Code, Electrical Code, Plumbing Code, Mechanical Code, and International Fuel Gas Code, which are currently adopted by the State of Iowa, as they are from time to time amended, are hereby adopted by the City of Durant, Iowa. Official copies of the Iowa State Building Code(s), the standard codes adopted therein, are on file in the office of the City Clerk.

51-3 FEES. The City Council shall set by resolution a schedule of fees for building permits.

## PROPERTY REGULATION

### CHAPTER 52 TREE REGULATIONS

52-1	Definitions
52-2	Creation and Establishment of a City Tree Board
52-3	Term of Office
52-4	Compensation
52-5	Duties and Responsibilities
52-6	Operation
52-7	Street Tree Species to be Planted
52-8	Spacing
52-9	Distance from Curb and Sidewalk
52-10	Tree Topping
52-11	Pruning, Corner Clearance
52-12	Dead or Diseased Tree Removal on Private Property
52-13	Removal of Stumps
52-14	Interference with City Tree Board
52-15	Review by City Council
52-16	Street Trees Prohibited

#### 52-1 DEFINITIONS.

1. "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.
2. "Park Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

52-2 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD. There is hereby created and established a City Tree Board for the City of Durant which shall consist of five (5) members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the City Council.

52-3 TERM OF OFFICE. The term of the five persons to be appointed by the Mayor shall be three (3) years except that the term of two of the members appointed to the first board shall be for only one (1) year and the term of two of the members of the first board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

52-4 COMPENSATION. Members of the Board shall serve without compensation.

52-5 DUTIES AND RESPONSIBILITIES. It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees, shrubs in parks, along streets and in other public areas but not street trees or any other trees or plants located in the boulevards. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive City tree plan for the City. The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter of questions coming within the scope of its work.

52-6 OPERATION. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

52-7 PARK TREE SPECIES TO BE PLANTED. The following list constitutes the official park tree species for the City. No species other than those included in this list may be planted as park trees without written permission of the City Tree Board:

1. Small Trees: Any Crab, Magnolia, American Maple, Aristocrat Pear.
2. Medium Trees: Any ashes (Marshall, White, Purple), White Spire Birch, Aspen, Norway Red Maple, Elms (when they get them developed against disease).
3. Large Trees: Tulip, Hackberry, Chestnut, Walnut, any Oak.
4. Before any Evergreen tree is planted, it must be approved by the Tree Committee.

52-8 SPACING. The spacing of park trees will be in accordance with the three species size classes listed in Section 52-7 above, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed and approved by a landscape architect and/or City Tree Board.

52-9 PUBLIC TREE CARE. The City shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, easements, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Board may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

52-10 TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or City Department to top any park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than tree inches in diameter within the tree's crown to such degree

so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this Ordinance at the determinations of the City Tree Board or Municipal Electrical Board.

52-11 PRUNING, CORNER CLEARANCE. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign or interferes with the normal flow of traffic.

52-12 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City. The Administrator will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

52-13 REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

52-14 INTERFERENCE WITH CITY TREE BOARD. It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any park trees, or trees on private grounds, as authorized in this ordinance.

52-15 REVIEW BY CITY COUNCIL. The City Council shall have the right to review the conduct, acts, and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make final decision.

52-16 STREET TREE PROHIBITED. Street trees are prohibited in the City of Durant. No person shall plant any tree, shrub, bush or other woody vegetation in any boulevard in the City. Flowers may be planted, on condition that the owner of the real estate fronting the boulevard where flowers are planted shall maintain all plantings in good condition and the City may at any time remove such plantings for any reason without compensation to any person.



## PROPERTY REGULATION

### CHAPTER 53 ELECTRICAL WIRING, EQUIPMENT AND POLES

- 53-1 General
- 53-2 Electrical Installations
- 53-3 Poles
- 53-4 Damage
- 53-5 Fire and Emergencies
- 53-6 Permits and Inspections
- 53-7 Service Connections
- 53-8 Meter Inspections and Tests
- 53-9 Access to Premises
- 53-10 Requirements For Power Service
- 53-11 Non-Liability
- 53-12 Rules, Regulations, and Rates
- 53-13 Discontinuance of Service
- 53-14 Board of Trustees
- 53-15 Mandatory Reports to the City Council

53-1 GENERAL. The provisions of this Ordinance shall apply to all electrical installations connected to the electrical system operated by the Durant Municipal Electric Plant, and to other electrical wires and poles now existing or to be constructed within the corporate limits of the City of Durant. The Durant Municipal Electric Board of Trustees shall be the governing body of equipment, poles, and materials operated and owned by Durant Municipal Electric.

53-2 ELECTRICAL INSTALLATIONS. All electrical installations, including either wiring or equipment, and the construction of electric wires and poles shall be installed and maintained in accordance with and shall conform to the requirements of the edition of the National Electric Code or any supplement thereto, currently recognized by the State of Iowa, as issued by the National Board of Fire Underwriters, and to such other State and Municipal regulations as may be in force at the time such installation is made, unless specifically designated otherwise by the provisions of this Ordinance. All electrical installations shall conform to the current National Electric Code and National Electric Safety Code.

53-3 POLES. All poles shall be placed in City Right of way.

53-4 DAMAGE. Any damages to any pavement, sidewalk, water pipe, sewer and other public or private property resulting from or in the setting relocation or repair of telephone, or electric poles, in any of the streets, alleys, highways or other places, shall be paid by any Company so erecting, relocating or repairing them, and the City of Durant shall not be responsible for any

damages resulting therefrom.

53-5 FIRE AND EMERGENCIES. In case of fire or other emergencies, the poles, wires and street fixtures may be cut off and removed, wires and street fixtures or the electrical current may be cut off, by order of the Fire Chief, without any liability or expense on the part of the municipality or such officer. Authorized personnel of the Electric Utility providing power to property shall be previously notified of the necessity to remove the poles, wires or fixtures or to cut off electrical current. At no time shall fire fighter personnel handle utility lines unless under direct supervision of utility company personnel.

53-6 PERMITS AND INSPECTIONS. Electrical permits are required and shall be paid for before the project is started. Electrical inspections shall be performed by the City Electrical Inspector who shall be State certified.

53-7 SERVICE CONNECTIONS. Connection from service outlets or underground services to service wires or secondary wires shall be made only by Electric Utility personnel. It shall be considered a violation of the provisions contained herein for any unauthorized person to make such a connection and persons may be fined by the Electric Utility..

53-8 METERING AND REMOVAL OF METERS.

1. All electrical current furnished to any consumer shall pass through a suitable meter provided by the Electric Utility. It shall be considered a violation of the provisions herein for any unauthorized persons to install or remove, to repair or try to repair, or to tamper in any way with connection to an electric meter.
2. Service Rules shall be used for Durant Municipal Electric metering equipment.

53-9 METER INSPECTIONS AND TESTS FOR DURANT MUNICIPAL ELECTRIC. Electric meters shall be inspected and/or tested whenever the Electric Utility believes that any meter is not registering correctly.

53-10 ACCESS TO PREMISES. Every consumer of electricity connected to the electric system shall permit authorized personnel of the Electric Utility free access to any premises or building to read meters, to examine the electrical installation, to determine the manner in which the electrical current is to be used, or for the purpose of cutting and trimming trees and shrubbery to the extent necessary to them clear of the electrical lines, and to cut down from time to time all dead, weak, leaning or dangerous trees or branches that are tall enough to strike electrical wires in the process of falling. Such access shall be granted at any time between the hours of twelve (12) a.m. and twelve (12) p.m. The consumer shall further cooperate by answering any questions asked of them relative to meters, wiring, equipment and the consumption of electrical current.

53-11 REQUIREMENTS FOR POWER SERVICE.

1. For all new electrical installations serving motors or other power equipment, the Superintendent of the Municipal Electric Plant shall be consulted as to the requirements of the service and shall designate the voltage to be utilized.
2. Starting equipment for all motors shall comply with requirements of the National Electric Code and shall be of the type approved by the Electric Utility as having proper starting voltage characteristics and minimum protective features to meet requirements herein. Approval of any starting equipment by the Electric Utility shall not be considered a recommendation of the protective features of the equipment, and no liability shall be attached either to the Electric Utility or personnel in which case the equipment fails to protect the motor from any damage due to cause of low voltage open phase, phase reversal, etc.

53-12 NON-LIABILITY. The Electric Utilities will not guarantee a constant supply of electric energy to any consumer or consumers and shall not be liable for any claim of damages arising out of failure to supply the same.

53-13 RULES, REGULATIONS AND RATES. The rules, regulations and rates for electric current herein or hereafter adopted shall be part of the contract with every person, firm or corporation supplied with electrical current by the Electric Utility and such person, firm or corporation, whether signing an application or contract or not, shall by taking or using electric current supplied by the Electric Utilities, express their consent to and be bound thereby to the preceding City Ordinance and Electric Utility Plant tariff.

53-14 DISCONTINUANCE OF SERVICE. When service is temporarily discontinued at the request of the consumer, or because of failure to pay for such service, a charge shall be made for the renewal of the service. In the event the current has been discontinued at any premise for the non-payment of a bill, after following the guidelines of the Code of Iowa, such current shall not be continued until the payment of all claims for the services has been made. Specific Electric Utility disconnection and reconnection rules may apply as governed by the Iowa Utilities Board.

53-15 BOARD OF TRUSTEES. The City Council is the governing body of each city utility except that utility board, as provided for in Chapter 388, State of Iowa Code, is the governing body of the city utility which it operates.

1. Establishment. A majority of the voters at a regular city election must approve the proposal for establishment. The proposal is submitted to the voters by the City Council on its motion or a valid petition as defined in Chapter 362.4, State of Iowa Code. The proposal shall specify the Board shall consist of three or five members, in accordance with Chapter 388.2, of the State of Iowa Code.
2. Appointment. All appointments to the Board are made by the Mayor, subject to the approval of the City Council. The City Council, by resolution, shall provide for

staggered six year terms. The Board of Trustees has three members.

53-16 MANDATORY REPORTS TO THE CITY COUNCIL.

1. A board shall make to the City Council a detailed annual report, including a complete financial statement for the preceding year.
2. The Board of Trustees must submit to the City Council a yearly budget for all financial activities for the forthcoming year.

(Ordinance C-5, Passed May 14, 1991)

(Ordinance C-6A, Passed August 15, 1979)

## PROPERTY REGULATION

### CHAPTER 54 REGULATION OF ABOVE-GROUND PROPANE TANKS

- 54-1 Tanks Allowed
- 54-2 Permits
- 54-3 Installers and Distributors
- 54-4 Tank Restrictions
- 54-5 Location of Tanks

54-1 TANKS ALLOWED. Following proper application to the City Administrator and compliance with all requirements of the regulations adopted herein, propane gas storage tanks (hereinafter "propane tanks" or "tank") not exceeding 500 gallons water capacity may be installed above ground within the City limits of the City of Durant.

54-2 PERMITS. The City Administrator will maintain permit forms for installation of propane tanks. Only liquefied petroleum gas may be stored in such tanks. The application shall be signed by all of the owners of the lot upon which the tank is to be installed. No tank shall be installed until a permit application has been submitted to the City Administrator, the City Administrator has received all information required under this Ordinance, and a Propane Tank Permit has been issued by the Administrator.

The permit applicant shall provide a legible site diagram proportionally drawn and to scale. The plan shall include the site business name, address, tank size, company performing the installation, distances to streets nearby, distances to all buildings and property lines, electrical power lines, flammable and combustible liquid storage tanks, and any other information as required by the Fire Prevention Division UFC 105.3.

A permit shall be obtained for each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of over 150 gallons water capacity. Only one tank shall be permitted on any lot.

54-3 INSTALLERS AND DISTRIBUTORS. Any party who installs tanks in the City shall have attained certification in NFPA (National Fire Protection Association) 58 (Basic Principles) and 54 (Distribution Systems Operations). These certifications must be current and updated regularly based upon the accepted schedule for re-certification. Prior to making such an installation, the installer shall submit plans showing the location of the tank as it related to the specific property and any adjacent property lines. If in compliance with the requirements of the Ordinance is shown, a permit may be issued. The installer shall install a liquid propane detection device within the residence or business served by the propane tank.

54-4 TANK RESTRICTIONS.

1. The maximum tank size in any area of the City shall not exceed 500 gallons water capacity.
2. All liquefied petroleum gas equipment shall be installed in accordance with the laws of the state of Iowa and nationally accepted standards including the latest version of NFPA standards #58 and #54 for the Storage and Handling of Liquefied Petroleum Gases.
3. Containers for compressed or liquefied gases shall be constructed in accordance with approved requirements and shall be so identified.
4. The City of Durant hereby adopts by this reference NFPA standards for #54 and #58. City Hall shall maintain a copy of those regulations for inspection.

54-5 LOCATION OF TANKS. Each propane tank shall be located with respect to the nearest important building and the boundary line of all adjoining property, in accordance with the following table:

<u>Water Capacity</u>	<u>Minimum Distance to Building</u>	<u>Distance to Property Line</u>
Up to 500 gallon	10 feet	10 feet

Regardless of tank size, any liquid propane tank filled on site must be located so that the filling connection and fixed liquid level gauge are at least 10 feet from any external source of ignition (i.e., open flame, window a/c compressor, central a/c unit, and intakes to direct vented gas appliances or intakes to a mechanical ventilation system.

All propane tanks shall be set on concrete pads or footings of sufficient size to prevent tipping. Concrete blocks or bricks shall not be used. Weeds, grass, brush, trash and other combustible materials shall be kept not less than 10 feet from LP gas tanks or containers.

When exposed to vehicular traffic, such as an alley, suitable protection of the regulators, containers, and piping shall be provided. Signage complying with Iowa law shall be posted in location as required by Iowa law. All tanks installed in residential areas shall be place perpendicular to the street or avenue where the residence is located.

(Ordinance 2001-5-1, Passed May 22, 2001)

## PROPERTY REGULATION

### CHAPTER 55 WIND ENERGY SYSTEMS

- 55-1 Purpose
- 55-2 Definitions
- 55-3 Permit Requirements
- 55-4 Site Plan Review
- 55-5 Design Standards
- 55-6 General Regulations for Wind Energy Systems

#### 55-1 PURPOSE.

The purpose of this chapter is to accommodate wind energy systems in appropriate locations, while minimizing any adverse visual, safety, and environmental impacts of the system. In addition, this chapter provides a permitting process for wind energy systems to ensure compliance with the provision of the requirements and standards established here in.

#### 55-2 DEFINITIONS

For use in the chapter, the following terms are defined:

- 1.) "Rooftop wind energy system" means small wind energy systems designed to be mounted on the rooftops of residential or commercial buildings.
- 2.) "Total system height" means the vertical distance from ground level to the highest point of the system, including any blades.
- 3.) "Tower wind energy system" means any free-standing electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy and associated structures and equipment.

#### 55-3 PERMIT REQUIREMENTS

No wind energy system shall be erected, constructed, installed or modified without first obtaining an approved Site Plan from the City Council, following a recommendation from the Planning and Zoning Commission. The owner/operator of the wind energy system shall obtain all other permits required by federal, state, and local agencies prior to construction of the system.

#### 55-4 SITE PLAN REVIEW

The Site Plan review process and requirements can be found under Zoning Ordinance Section 8-1-36, and shall apply to wind energy systems in this chapter.

#### 55-5 DESIGN STANDARDS

- 1.) All tower wind energy systems shall comply with the following standards.
  - A.) A setback of 110% of the total system height from any property line or overhead utility lines is required. Guy wires shall not extend into the setbacks.
  - B.) All wind energy systems shall have a maximum height of eighty (80) feet.

- C.) Ground clearance for the rotor blades shall not extend within fifteen (15) feet of the ground or other structures.
  - D.) The base of the system shall not be climbable up to fifteen (15) feet from the ground.
  - E.) The sound of the system shall not exceed fifty (50) decibels measured at the property line.
  - F.) The system shall not cause vibration for neighboring properties
  - G.) No system shall interfere with television, microwave, navigational, radio, or other personal communication devices transmissions.
  - H.) The system shall not cause shadow flicker on neighboring properties.
  - I.) All systems shall have a neutral color, non-reflective surface.
  - J.) All systems shall be constructed in accordance with plans prepared and stamped by a qualified professional, licensed engineer. These plans shall be submitted for review with the Site Plan.
  - K.) All systems shall be equipped with manual and automatic over speed controls to limit the blade rotation speed within the design limits of the system.
- 2.) All rooftop wind energy systems shall comply with the following design standards.
- A.) The sound shall not exceed fifty (50) decibels measured at the property line.
  - B.) The system shall not cause vibration for neighboring properties.
  - C.) No system shall interfere with television, microwave, navigational, radio or other personal communication devices transmissions.
  - D.) The system shall not cause shadow flicker on neighboring properties.
  - E.) All systems shall have a neutral color, non-reflective surface.
  - F.) Maximum height for roof top systems shall not exceed eighty (80) feet from ground to rotary blades, including structure height it is mounted to.

#### 55-6 GENERAL REGULATIONS FOR WIND ENERGY SYSTEMS

- 1.) Insurance requirements. The following insurance requirements are required for all wind energy systems.
  - A.) Proof of insurance coverage must be provided prior to the issuance of a building permit.
  - B.) Liability insurance with a minimum coverage of one million dollars (\$1,000,000) shall be maintained by the owner of the tower wind energy system.
  - C.) The City shall be notified if coverage lapses, and reserves the right to stop use of the system until coverage is reinstated.
- 2.) Accessory Structure. Wind energy systems shall not be considered as accessory structures.
- 3.) Inspections. An inspection of all tower wind energy systems shall be conducted by a qualified professional at least once every twenty-four (24) months, with a copy of the inspection report submitted to the Building Inspector. In the event property owner fails to



provide the required inspection, use of the system must cease until an inspection is completed and report submitted.

- 4.) Number of systems. No more than one wind energy system may be placed on any parcel, lot or tract of land.
- 5.) Lighting and signage. No lighting or signage shall be placed on any wind energy system unless required by law by federal, state or local authority or FAA regulations.
- 6.) Abandonment. Any wind energy system that is not operated for a period of twelve (12) consecutive months shall be considered abandoned and shall constitute a nuisance. The owner shall dismantle and remove the entire system from the property within ninety (90) days of notice from the City. If the abandoned system is not removed in the specified amount of time, the City may remove it and recover its costs from the owner of the property on which it is located.

# PROPERTY REGULATION

## CHAPTER 56 SOLAR PANELS AND ENERGY SYSTEMS

- 56-1 DEFINITIONS
- 56-2 SOLAR PANELS
- 56-3 GENERAL STANDARDS
- 56-4 ROOF MOUNTED PANELS
- 56-5 REVIEW PROCESS
- 56-6 SUBMITTAL REQUIREMENTS

The standards are intended to ensure that solar technology associated with existing and new development is designed to be compatible, aesthetic, and safe in relation to existing and planned uses, and supports development consistent with the City's Comprehensive Plan.

### 56-1 DEFINITIONS

Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generations or water heating.

Building Integrated Solar Energy System: A solar energy system that is an integral part of a building, rather than a separate mechanical device, replacing, or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within the roofing materials, windows, skylights and awnings.

Ground mounted Solar Energy System: Solar energy system that is free standing and is not supported by any building, accessory or dwelling. For the purposes of this section, solar powered lights used to illuminate exterior areas shall not be included in this definition.

Roof mounted Solar Energy System: A roof mounted solar energy system mounted directly abutting the roof.

The Solar Standards shall apply to all zone districts, including all land within the corporate city limits. All applications for Solar Systems shall be in accordance with this ordinance.

### 56-2 SOLAR PANELS

- 1.) Solar Panels are allowed in all zone districts subject to standards here in.
- 2.) Solar Panels, if installed on the ground, shall meet accessory use setback.

### 56-3 GENERAL STANDARDS

- 1.) All exposed electrical or plumbing lines shall be of a color compatible with the structure and materials adjacent to the lines; i.e. pipes on walls shall be the color compatible with the walls, while pipes on roof shall be the color compatible with the roof.

- 2.) Exposed frames shall have a non-reflective surface. Aluminum trim, if used, and visible, shall be of a color compatible with the surface upon which they are installed.

#### 56-4 ROOF MOUNTED PANELS

- 1.) The location and design of Solar Panels shall be integrated with the building architecture.
- 2.) Solar Panels shall be placed uniformly, consistent with the overall roof configuration. The shape and proportions of the array shall be matched with the shape and proportions of the roof.
- 3.) Solar Panels shall be installed flat on the plane of pitched roofs; or if they must be pitched to obtain efficiencies, panels shall not exceed a pitch of twenty-five (25) degrees.
- 4.) The placement of Solar Panels on angled roofs shall be designed so they do not extend beyond the ridgeline or edges of the roofline.
- 5.) Solar Panels on flat roofs shall be positioned behind parapets or screen walls to the extent possible; or the panels shall be integrated into the architecture.

#### 56-5 SITE PLAN REVIEW

- 1.) The Site Plan review process and requirements can be found under Zoning Ordinance Section 8-1-36, and shall apply to solar energy systems in this chapter.
- 2.) A building permit is required and shall be reviewed against the standards herein.

#### 56-6 SUBMITTAL REQUIREMENTS

- 1.) All systems shall be constructed in accordance with plans prepared and stamped by a qualified professional, licensed engineer. These plans shall be submitted for review with the Site Plan.

## PROPERTY REGULATION

### CHAPTER 57 OUTDOOR FURNACES

57-1 Purpose

57-2 Definition

57-3 Outdoor Furnaces Regulated

57-1 Purpose: The council finds that odors and emissions resulting from the use of outdoor furnaces may be detrimental to public health and may deprive neighboring residents of the enjoyment of their property. The purpose of this chapter is to regulate the installation, construction and operation of outdoor furnaces within the City in order to secure and promote public health, comfort, convenience, safety and welfare.

57-2 Definition: For use of this chapter, “outdoor furnace” means any equipment, device, or apparatus which is installed, affixed, or situated outdoors or within another structure for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat or hot water to any other structure.

This ordinance does not apply to grilling or cooking outdoors using wood, charcoal, propane or natural gas.

57-3 Outdoor Furnaces Regulated:

- 1.) Outdoor furnaces or heat sources that burn wood, shall only burn clean, dry wood. ”Clean Wood” mean natural wood which has not been painted, varnished or coated with similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products. “Dry Wood” means wood that is not newly cut or green wood; wood should be aged and dry for fast burning with little smoke produced.
- 2.) Outdoor Furnaces wood fired, shall have a chimney that extends at least fifteen (15) feet above the ground surface or at least as high above the ground as the height of the roofs in a residential zoned neighborhoods.
- 3.) Chimneys or pipes shall be kept clean as to produce very little smoke or steam, and to keep the air pollutants and smell to a minimum. We realize some smoke or steam is expected to be produced, however, if the police department receives more than three complaints in seven days, the property owner will be asked to correct the problem within three days or face municipal infraction fines for a nuisance.
- 4.) Outdoor Furnaces shall be restricted to the rear yard area only, having a minimum setback of ten (10) feet from the side and rear property lines.
- 5.)

## PROPERTY REGULATION

### CHAPTER 58 FLOOD PLAIN REGULATIONS

58-1	City Administrator
58-2	Enforcement Official
58-3	Official Map
58-4	Permits Required
58-5	Review of Permit Applications
58-6	Permit Review Process
58-7	Review by Governing Body
58-8	New Water and Sewer
58-9	Flood Carrying Capacity
58-10	Variance Procedures
58-11	Nonconforming Use
58-12	Penalties for Violation
58-13	Precedence Over Other Ordinances
58-14	Definitions

58-1 CITY ADMINISTRATOR. The Durant City Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Ordinance and all other Ordinances of the City of Durant now in force or hereafter adopted, related to zoning, subdivision or building codes.

58-2 ENFORCEMENT OFFICIAL. The Administrator shall be appointed to these additional responsibilities by resolution of the Governing Body and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Administrator, the Governing Body of the City shall designate an acting enforcement official.

58-3 OFFICIAL MAP. The Governing Body of the City of Durant hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map, for the County of Cedar and amendments, as the official map to be used in determining those areas of special flood hazard.

58-4 PERMITS REQUIRED. No person, firm or corporation shall erect, construct, enlarge or improve any building or structure or make other developments, as defined in the definitions section of this Ordinance, in the City or cause the same to be done without first obtaining a separate development permit for each building or structure.

1. Within Zone(s) A on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of factory-built homes.

2. Application. To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
  - a. Identify and describe the work to be covered by the floodplain development permit for which application is made.
  - b. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
  - c. Indicate the use or occupancy for which the proposed work is intended.
  - d. Be accompanied by plans and specifications for proposed construction.
  - e. Be signed by the permittee or the permittee's authorized agent who may be required to submit evidence to indicate such authority.
  - f. Within designated floodplain areas, be accompanied by elevations of the lowest floor (including basement) or in the case of flood proofed nonresidential structures, the elevation to which it shall be flood proofed. Documentation or certification of such elevations will be maintained by the Administrator.
  - g. Give such other information as reasonably may be required by the Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of nonresidential flood proofing when a minus one foot, (-1') penalty is assessed at the time of rating the structure for the policy premium).

58-5 The Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by federal or State Law including approval from the Iowa Department of Natural Resources.

58-6 The Administrator in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of factory-built homes and other development(s) (as defined in Section 6-12-14 of this Ordinance) will:

1. Where needed, the Iowa Department of Natural Resources shall be contacted to compute regulatory flood elevation data and floodway data, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone A on the official map that the following performance standards be met:
  - a. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
  - b. Nonresidential Construction. New construction or substantial improvement of any

commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local enforcement official.

- c. Require for all new construction and substantial improvements. That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Require the use of construction materials that are resistant to flood damage.
  3. Require the use of construction methods and practices that will minimize flood damage.
  4. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  5. New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  6. Assure that all factory-built homes shall be anchored to resist flotation, collapse, or lateral movement. Factory-built homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
    - a. Over-the-top ties be provided at each of the four corners of the factory-built home with two additional ties per side at the intermediate locations and factory-built homes less than 50 feet long requiring one additional tie per side.

- b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and factory-built homes less than 50 feet long requiring four additional ties per side.
  - c. All components of the anchoring system be capable of carrying a force of 4800 pounds.
  - d. Any additions to factory-built homes be similarly anchored.
7. Assure that all factory-built homes that are placed or substantially improved within Zone(s) A of the community's FIRM on sites:
- a. Outside of a factory-built home park or subdivision,
  - b. In a new factory-built home park or subdivision,
  - c. In an expansion to an existing factory-built home park or subdivision, or
  - d. In an existing factory-built home park or subdivision on which a factory-built home as incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the factory-built home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6-12-6(6).
8. Assure that factory-built homes to be placed or substantially improved on sites in an existing factory-built home park or subdivision within A zones on the community's FIRM that are not subject to the provisions of Section 6-12-6(7) be elevated so that either:
- a. The lowest floor of the factory-built home is one (1) foot above the base flood elevation, or
  - b. The factory-built home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6-12-6(6).
9. Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either:
- a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use, or
  - c. Meet the permit requirements and the elevation and anchoring requirements for "factory-built homes" of this Ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

58-7 The Governing Body of the City of Durant shall review all subdivision applications and other proposed new developments, including factory-built home parks or subdivisions, and shall make



findings of fact and assure that:

1. All such proposed developments are consistent with the need to minimize flood damage.
2. Subdivision proposals and other proposed new developments (including proposals for factory-built home parks and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in areas designated within Zone(s) A of the floodplain.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

58-8 NEW WATER AND SEWER. New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

58-9 The City Council of the City will insure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The City will notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the City will work with appropriate State and federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

58-10 VARIANCE PROCEDURES.

1. The Durant Board of Adjustment as established by the City of Durant shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
2. The Durant Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in a requirement, decision, or determination made by the Administrator in the enforcement or administration of this Ordinance.
3. Any person aggrieved by the decision of the Durant Board of Adjustment or any taxpayer may appeal such decision to the District Court in and for Cedar County, Iowa.
4. In passing upon such applications, the Durant Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Ordinance and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Conditions for Variances.

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (b-f) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the reconstruction rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon:
  - (1) A showing of good and sufficient cause,
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances/Resolutions.
- f. Any applicant to whom a variance is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

58-11 NON-CONFORMING USE.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the Ordinance, but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
  - a. If such use is discontinued for three consecutive months, any future use of the building premises shall conform to this Ordinance. The Public Works Department shall notify the Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of months.
  - b. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

58-12 PENALTIES FOR VIOLATION. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants or variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00, or be imprisoned for not to exceed thirty (30) days in the County jail. In addition, any violator shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the Administrator or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation including enforcement subject to the provisions of Chapter 1-3 of this code.

58-13 PRECEDENCE OVER OTHER ORDINANCES. This Ordinance shall take precedence over conflicting Ordinances or parts of Ordinances. The City Council may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.

58-14 DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

1. "Base Flood". A flood having a one percent chance of being equaled or exceeded in any given year.
2. "Basement". Any area of the building having its floor subgrade (below ground level) on all sides.
3. "Development". Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
4. "Existing Factory-Built Home Park or Subdivision". A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
5. "Expansion of Existing Factory-Built Home Park or Subdivision". The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
6. "Flood". A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
7. "Floodplain". Any land area susceptible to being inundated by water from any source.
8. "Flood proofing". Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
9. "Historic Structure". Any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a State inventory of historic places in States with historic reservation programs which have been approved by the Secretary of the Interior; or

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved State program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in States without approved programs.
- 10. "Lowest Floor". Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
- 11. "Factory-Built Home". A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "factory-built home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "factory-built home" does not include park trailers, travel trailers, and other similar vehicles.
- 12. "Factory-Built Home Park or Subdivision". A parcel (or contiguous parcels) of land divided into two or more factory-built home lots for rent or sale.
- 13. "New Construction". For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and include any subsequent improvements to such structures.
- 14. "New Factory-Built Home Park or Subdivision". A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final sites grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.
- 15. "Principally Above Ground". That at least 51 percent of the actual cash value of the structure, less land value, is above ground.
- 16. "Recreational Vehicle". A vehicle which is:
  - a. Built on a single chassis;

- b. 400 Square feet or less when measured at the largest horizontal projection;
  - c. Designed to be self-propelled or permanently towable by a light duty truck; and
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
17. "Regulatory Flood Elevation". The water surface elevation of the 100-year flood.
18. "Special Flood Hazard Area". The land within a community, subject to a one percent or greater chance of flooding in any given year. This land is identified as Zone A.
19. "Start of Construction". (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
20. "Structure". A walled and roofed building that is principally above ground, as well as a factory-built home, and a gas or liquid storage tank that is principally above ground.
21. "Substantial Damage". Damage of any origin sustained by a structure where by the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
22. "Substantial Improvement". Any improvement to a structure which satisfies either of the following criteria:
- a. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
    - (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to

assure safe living conditions or

- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- b. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the FIRM date shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

23. "100-Year Flood". The condition of flooding having a one percent chance of annual occurrence.

24. "Variance". A grant of relief by a community from the terms of a floodplain management regulations.

25. "Violation". The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

(Ordinance G-3, Passed March 23, 1993)

**PROPERTY REGULATION**

**CHAPTER 59 TAX INCREMENT FINANCING  
AND INDUSTRIAL PROPERTY TAX EXEMPTION**

DURANT URBAN RENEWAL AREA #1

- 59-1 Purpose
- 59-2 Definitions
- 59-3 Provisions for Division of Taxes  
Levied on Taxable Property in  
the Urban Renewal Areas

DURANT URBAN RENEWAL AREA #2

- 59-4 Purpose
- 59-5 Definitions
- 59-6 Provisions for Division of Taxes  
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INDUSTRIAL PROPERTY EXEMPTION FROM TAXES

- 59-7 Purpose
- 59-8 Definitions
- 59-9 Period of Partial Exemption
- 59-10 Amounts Eligible for Exemption
- 59-11 Limitations
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DURANT URBAN RENEWAL AREA #3

- 59-16 Purpose
- 59-17 Definitions
- 59-18 Provisions for Division of Taxes  
Levied on Taxable Property in the

Urban Renewal Area Amendment



## DURANT URBAN RENEWAL AREA #1

59-1 PURPOSE. The purpose of this Ordinance is to provide for the division of taxes levied on the taxable property in Urban Renewal Areas of the City each year by and for the benefit of the State, City, County, school districts or other taxing districts after the effective date of this Ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City to finance projects in such areas.

59-2 DEFINITIONS. For use within this Ordinance, the following terms shall have the following meanings:

1. "City" shall mean the City of Durant, Iowa.
2. "County" shall mean the County of Cedar, Iowa.
3. "Urban Renewal Area" shall mean the "Durant Economic Development District", the boundary of which is set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on May 26, 1992.

A parcel of land located in the South half of the Northeast Quarter and the North Half of the Southeast Quarter of Section 35, Township 79 North, Range 1 West of the 5th P.M., Cedar County, Iowa, more particularly described as:

Beginning at the Center of said Section 35; thence North 00°32'43" West 564.65 feet along the west line of said Northeast Quarter; thence North 89°59'38" East 2229.49 feet, thence North 89°22' East a distance of 406.67 feet more or less to the centerline of County Highway Y-26 and the east line of the Southeast Quarter of said Section 35; thence South along the East line of said Southeast Quarter a distance of 1357.82 feet to a point in line with the north right of way line of Iowa State Highway #927; thence North 83°44' West on the north right of way line of said State Highway #927 a distance of 408.29 feet to the beginning of a 5690 foot radius nontangent curve concave Northerly whose chord bears North 81°32'26" West 729.92 feet; thence Northwesterly along said right of way curve an arc distance of 730.42 feet; thence North 12°08'05" East 20.00 feet along said right of way; thence North 77°51'55" West 933.80 feet along said right of way to the beginning of a 5790 foot radius tangent curve concave Southerly whose chord bears North 80°50'31" West 601.34 feet; thence Northwesterly along said right of way curve an arc distance of 601.61 feet to the West line of said Southeast Quarter; thence North 00°32'43" West 328.55 feet along said West line to the Point of Beginning.

59-3 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN

THE URBAN RENEWAL AREAS. After the effective date of this Ordinance, the taxes levied on the taxable property in an Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which an Urban Renewal Area is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in an Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the effective date of this Ordinance, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in an Urban Renewal Area on the effective date of this Ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1 of the calendar year preceding the effective date of this Ordinance shall be used in determining the assessed valuation of the taxable property in the Urban Renewal Area on the effective date.
2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the City to finance or refinance, in whole or in part, projects in an Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this Ordinance. Unless and until the total assessed valuation of the taxable property in an Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (1) of this section, all of the taxes levied and collected upon the taxable property in an Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in an Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
3. The portion of taxes mentioned in subsection (2) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in an Urban Renewal Area.
4. As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property. (Ordinance E-3, Passed June 23, 1992)

## **DURANT URBAN RENEWAL AREA #2**

59-4 PURPOSE. The purpose of this Ordinance is to provide for the division of taxes levied on the taxable property in the 1995 Addition to the Durant Urban Renewal Area of the City each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this Ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City to finance projects in the such area.

59-5 DEFINITIONS. For use within this Ordinance the following terms shall have the following meanings:

1. "City" shall mean the City of Durant, Iowa.
2. "County" shall mean the County of Cedar, Iowa.
3. "Urban Renewal Area" shall mean the 1995 Addition to the Durant Urban Renewal Area of the City of Durant, Iowa, the boundaries of which are set out below, approved by the City Council by resolution adopted on the 9th day of May, 1995;  
Commencing at the Southeasterly corner of Lot 2, in Block 47 of the Original Town of Durant, Iowa; thence Northwesterly along the Northerly right-of-way line of the Iowa Interstate Railroad to its intersection with the Southwesterly corner of Lot 5, in Block 54; thence Northeasterly along the Westerly line of the said Lot 5 to the Northwesterly corner of the said Lot 5; thence across the right-of-way of State Highway 927 (also known as 5th Street in the City of Durant) from the Northwesterly corner of the said Lot 5 of Block 54 to the Southwesterly corner of Lot 6 in Block 40; thence Northwesterly along the Northerly right-of-way line of State Highway 927 (5th Street) to its intersection with the center line of County Highway Y-26 extended South; thence North along said center line to its intersection with the Southerly right-of-way line of the alley in Block 40, extended Northwesterly; thence Southeasterly along said extension of the Southerly right-of-way line of said alley to the Northwesterly corner of Lot 6 in Block 40; thence Southeasterly along the Southerly right-of-way line of the said alley to the Northeasterly corner of Lot 10, Block 42; thence Southwesterly along the Easterly line of the said Lot 10 I Block 42 to the intersection of the said Easterly line with the Northerly right-of-way of State Highway 927 (5th Street); thence Southeasterly along said Northerly right-of-way line to the Southwesterly corner of Lot 6, in Block 6; thence Northeasterly along the Westerly line of the said Lot 6 of Block 6, to its intersection with the Southerly right-of-way line of the alley in said Block 6; thence Southeasterly along the said Southerly right-of-way line of the said alley to the Northeasterly corner of Lot 10 in Block 10; thence Southwesterly along the Easterly line of Lot 10, in Block 10 and across the said State Highway 927 (5th Street) to the Northeasterly corner of Lot 1, in Block 11; thence Southeasterly along the Southerly right-of-way line of State Highway 927; thence Southeasterly

along the Northerly line of Block 47 to the Northeasterly corner of Lot 2 in Block 47; thence Southwesterly along the Easterly line of Lot 2 in Block 47 to the Southeasterly corner of Lot 2 in Block 47, and the point of beginning; all references to Blocks and Lots referring to the Original Town of Durant, and all in the City of Durant, Cedar County, Iowa.

59-6 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREAS. After the effective date of this Ordinance, the taxes levied on the taxable property in an Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which an Urban Renewal Area is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in an Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph 2. below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in an Urban Renewal Area on the effective date of this Ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the Ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of taxable property in the annexed area.
2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this Ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the

respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.
4. As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ordinance E-4, Passed May 9, 1995)

## **INDUSTRIAL PROPERTY EXEMPTION FROM TAXES**

59-7 PURPOSE. The purpose of this Ordinance is to provide for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, distribution centers and the acquisition of or improvement to machinery and equipment assessed as real estate.

59-8 DEFINITIONS. For use in this Ordinance the following terms are defined:

"Actual Value Added" means the actual value added as of the first year for which the exemption is received, except that the actual value added by improvements to machinery and equipment means the actual value as determined by the local assessor as of January 1 of each year for which the exemption is received.

"Distribution Center" means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

"New Construction" means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the

City upon recommendation of the Iowa Department of Economic Development.

"New Machinery and Equipment Assessed as Real Estate": means new machinery and equipment assessed as real estate pursuant to Section 427A.1, Subsection 1, Paragraph "E", Code of Iowa, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

"Research-Service Facilities" means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

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

59-9 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouse, distribution centers, and the acquisition of or improvement to machinery and equipment assessed as real estate, is eligible to receive a partial exemption from taxation for a period of five (5) years.

59-10 AMOUNTS ELIGIBLE FOR EXEMPTION. The amount of actual value added which is eligible to be exempt from property taxation shall be as follows:

- a. For the first year, seventy-five percent;
- b. For the second year, sixty percent;
- c. For the third year, forty-five percent;
- d. For the fourth year; thirty percent;
- e. For the fifth year; fifteen percent;

59-11 LIMITATIONS. The granting of the exemption under this Ordinance for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

59-12 APPLICATIONS. An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1st of the assessment year in which the value added is first assessed for taxation.

2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

59-13 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty days after such hearing, the City Council, by Ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

59-14 EXEMPTION REPEALED. When in the opinion of the City Council continuation of the exemption granted by this Ordinance ceases to be of benefit to the City, the City Council may repeal this Ordinance, but all existing exemptions shall continue until their expiration.

59-15 DUAL EXEMPTIONS PROHIBITED. A property tax exemption under this Ordinance shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Ordinance No. E-5, Passed January 13, 1998)

### **DURANT URBAN RENEWAL AREA #3**

59-16 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the 2008 Addition to the Durant Urban Renewal Area of the City of Durant, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Durant to finance projects in the such area.

(Ordinance 2008-UD-1, passed December 9, 2009)

59-17 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

“City” shall mean the City of Durant, Iowa;

“County” shall mean Cedar County and Muscatine County, Iowa;

“Urban Renewal Area” means the entirety of the Durant Urban Renewal Area as of November 25, 2008;

“Urban Renewal Area Amendment” shall mean the 2008 addition to the Durant Urban Renewal Area of the City of Durant, Iowa the boundaries of which are set out below, approved by the City by resolution adopted on the 25<sup>th</sup> day of November,2008:

Part of the Southeast Quarter of Section 35, Township 79 North, Range 1, West of the 5<sup>th</sup> P.M., Durant Iowa, being more particularly described as follows:

Commencing at the southeast corner of the Southeast Quarter of said Section 35, Township 79 North, Range 1, West of the 5<sup>th</sup> P.M., Durant, Iowa, being more particularly described as follows:

Commencing at the southeast corner of the Southeast Quarter of said section 35, said point being the POINT OF BEGINNING of the tract of land hereinafter described;

thence North 89°56'15" West 1259.91 feet along the south line of the Southeast Quarter of said Section 35;

thence North 00°09'30" East 1181.16 feet

thence North 89°55'45" West 265.84 feet;

thence North 00°07'40" West 740.62 feet to a point on the South right-of-way line of the Iowa Interstate Railroad as now established;

thence South 77°51'30" East 1376.22 feet along the south right-of-way line of said Iowa Interstate Railroad;

thence South 12°05'30" West 172.52 feet;

thence South 77°50'35" East 223.92 feet to a point on the east line of the Southeast Quarter of Section 35;

thence South 00°09'50" West (assumed bearing for this survey) 1418.17 feet along the east line of the southeast quarter of said Section 35 to the point of beginning,

containing 53.58 acres, more or less

59-18 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area Amendment. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area Amendment each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area Amendment is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County



Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9 (1), the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate –income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Amendment exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

(d) as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**ZONING AND SUBDIVISION  
CHAPTER 60**

**ZONING REGULATIONS**

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## ARTICLE I

### TITLE, AUTHORITY, AND DEFINITIONS

**60-01 TITLE.** This ordinance shall be known and may be referred to as the “Zoning Ordinance” of the City of Durant, Iowa, and shall be referred to herein as “this ordinance.”

**60-02 PURPOSE.** The zoning regulations as set forth herein are deemed necessary to encourage the reasonable use of land while protecting the health, safety, and general welfare of the residents and property owners of the City of Durant. The Council, per the authority of Chapter 414 of the Code of Iowa, and in accordance with the comprehensive plan, has put forth specific regulations and corresponding Map or District Boundaries to promote and ensure the appropriate use of land and the compatibility and consistency of uses in a particular area. The regulations are intended as well to protect the value and character of buildings and property while encouraging efficient and generally accepted urban design patterns and principles..

**60-03 INTERPRETATION.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this ordinance shall control.

**60-04 DEFINITIONS.** For the purpose of this ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number includes the singular; the word “shall” is mandatory, and word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied.

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. An accessory use or structure is only allowed when a principal use or structure exists on the same lot.

Agricultural Use: Land used for the science or occupation concerned with cultivating land, raising crops, and feeding, breeding, and raising livestock; farming including the production of crops, livestock, or poultry for income purposes.

Alley: A public way, other than a street, twenty (20) feet or less in width affording secondary means of access to abutting property. Used primarily for vehicular service access to the rear or side of properties which otherwise has primary access on a public street.

Alterations, Structural: Any change to the supporting members or components of a building, such as bearing walls, columns, beams or girders, including expansion and substantial change to exterior walls of building and roof.

Apartment: A room or set of rooms fitted especially with housekeeping facilities and usually rented or leased as a dwelling.

Basement: A story partly or wholly below grade. A basement is counted as a story for the purpose

of height regulations if more than 50% of its height is above the level of the adjoining ground level. For sloping or terraced sites, the average grade adjoining the basement area is used to determine whether it shall be counted as a story.

**Bed & Breakfast**: A house or portion thereof where short term lodging, rooms, and/or meals are provided. Such use requires approval of a Special Use Permit to ensure such use is appropriate on a given site.

**Billboard**: “Billboard” as used in this ordinance shall include as structures, regardless of the material used in the construction of the same, that are erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall of painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

**Boarding House**: A building other than a hotel or motel where for compensation, meals, lodging and meals are provided for four (4) or more persons.

**Buildable Area**: The portion of a lot remaining after required yards have been provided.

**Building**: Any structures designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.

**Building , Height of**: The vertical distance from the average natural grade at the building line, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or a hip roof.

**Building Setback Line**: Measured from the front lot line or front property line, a distance equal to the setback requirement of the particular district in which the building is located. The building setback line in the R-1 Residential District is measured 25’ from the front property line, extending across the lot. On a cul-de-sac or having a curved front property line, the average point along said property line shall be used in determining the required setback line.

**Feed Lot**: Any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of livestock (e.g. cattle, hogs, or sheep). The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

**Home Occupation**: An occupation or profession which is carried on in a residence which is clearly incidental and secondary to the use of the dwelling unit for residential purposes. Such use shall not be visibly or readily apparent from any public way, other than (1) one small wall sign permitted as outlined herein, and shall be operated in a manner which protects and maintains the residential character of the neighborhood.

**Junk Yard**: Any area where waste, discarded or salvaged material are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

**Kennel, Dog**: Any premises on which three (3) or more dogs, six months old or older, are kept.

**Landscaping**: Improve the aesthetic appearance of (a piece of land) by changing its contours, adding ornamental features and plantings. Natural vegetation such as trees, shrubs, and ground covers used in landscaping have been shown to reduce storm water runoff, improve water quality,

improve air quality, and enhance the quality of life and economic value of a property.

Lot: For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
- c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; or
- d. A parcel of land described by metes and bounds;

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot, Corner: A lot abutting upon two (2) or more streets at their intersection.

Lot, Depth: The mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Interior: A lot other than a corner lot.

Lot Lines: The lines bounding a lot, including the right-of-way line of any public road or highway acquired by easement.

Lot of Record: A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, description of which has been so recorded.

Lot Width: The width of a lot measured at the building line and at right angles to its depth.

Lot, Reversed Frontage: A corner lot, the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.

Mobile Home: Any vehicle which at any times was used, maintained, or so originally constructed as to permit being used as a conveyance upon highways or public streets, or waterways, and duly licensed as such; so designed and so constructed as to permit occupancy thereof as a dwelling unit or sleeping place for one or more persons, whether attached or unattached to a permanent foundation. Nothing in this ordinance shall be construed as permitting a mobile home in other than an approved mobile home park.

Nonconforming Use: Any building or land lawfully occupied by a use at the time of passage of this ordinance or amendment thereto which does not conform to the use regulations of the district in which it is situated. It is the intent of this ordinance that such uses not continue indefinitely but such buildings or land become legal conforming uses overtime in the district in which they are located.

Parking Space, Off-Street: For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and un-parked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and

maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the City.

Porch, Unenclosed: A roofed projection which has no more than fifty (50) percent of each outside wall area enclosed by a building or siding material other than meshed screens.

Principal Use: The main use of land or structures as distinguished from an accessory use.

Rooming House: A building where a room or rooms are provided for compensation to four (4) or more persons.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided however that the following shall not be included in the application of the regulations herein:

- a. Signs not exceeding one square foot in area and bearing only property numbers, post office boxes, names of occupants of premises, or other identification of premises not having commercial connotations;
- b. Flags and insignia of any government except when displayed in connection with commercial promotion;
- c. Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
- e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

The surface area of a sign shall be computed as including the entire area, within a regular geometric form comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

Sign, Exterior: A sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such a sign is located. An exterior sign may be a sign attached flat against a building or structure, or projecting out from a building or structure or erected upon the roof of a building or structure.

Sign, Free Standing or Post: Any sign erected or affixed in a rigid manner to any pole or post, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including signs, or sign devices indicating the business transacted, services rendered, or goods sold or produced on the premises by an occupant thereof.

Special Use: A use which has special or unique characteristics, that requires a careful review of its location, design, and operation to ensure the desirability of permitting its establishment on any given site. A Special Use Permit is required for such use as approved by the Board of Adjustment per Article VI and Article X.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof next above it.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and

exterior wall face not more than four (4) feet above the top floor level.

Street Line: The right-of-way line of a street.

Street or Road, Public: Any thoroughfare or public way not less than twenty (20) feet in width, which has been dedicated to the public or deeded to the City or County for street purposes; and also any such public way as may be created after enactment of this ordinance, provided the right-of-way is fifty (50) feet or more in width.

Structural Alterations: Any replacement or changes in the type of construction or in the supporting members of a building, such as load bearing walls or partitions, columns, beams, or girders, beyond ordinary repairs and maintenance.

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls and fences (more than 6 feet in height), billboards, poster panels, solar collectors, and dish antennae.

Travel Trailer: A recreational vehicle, with or without motive power; designed as a temporary dwelling, not exceeding eight (8) feet in width and forty (40) feet in length, exclusive of separate towing unit. Such vehicles are customarily and ordinarily used for travel or recreational purposes and not used for permanent habitation.

Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, except as may be provided by other sections of this ordinance. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and nearest permitted building shall be used.

Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. On corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension.

Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots the opposite end of the lot from the front yard.

Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

## ARTICLE II

### DISTRICTS, MAP, AND ANNEXATION

**60-05 ESTABLISHMENT OF DISTRICTS.** In order to carry out the purpose and intent of this ordinance, the area of the City of Durant, Iowa, is hereby divided into nine (9) zoning district classifications as follows:

- R-1 Single Family Dwelling District
- R-1A Single and Two Family Dwelling District
- R-2 Multiple Family Dwelling District
- R-3 Mobile Home Park Dwelling District
- RT-1 Residential Transitional District
- C-1 Central Commercial District
- C-2 General Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District

**60-06 OFFICIAL ZONING MAP.** The boundaries of these districts are indicated upon the Official Zoning Map of the City of Durant, Iowa, which map is made a part of this ordinance by reference hereto. The Official Zoning Map and all the notations, references and other matters shown thereon shall be as much a part of this ordinance as if the notations, references and other matters set forth by said map were all fully described herein.

The Official Zoning Map shall be on file in the office of the City Clerk of Durant, Iowa, and shall bear the signature of the Mayor attested by the City Clerk, under the certification that this is the Official Zoning Map referred to in ARTICLE II Section 60-06, of this ordinance.

If in accordance with the provisions of the ordinance changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, the ordinance number and date of said change shall be recorded by the City Clerk on the Official Zoning Map.

**60-07 INTERPRETATION OF BOUNDARIES.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- a. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- b. Boundaries indicated as approximately following the right-of-way line of a street, highway or railroad shall be construed as following such right-of-way line;
- c. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- d. Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits;
- e. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the



- centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- f. Boundaries indicated as parallel to or extensions of features indicated in subsections a. through e. above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
  - g. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections a. through f. above, the Board of Adjustment shall interpret the district boundaries.

**60-08 ANNEXATION OF TERRITORY.** All territory which may hereafter be annexed to the City of Durant, Iowa, shall be considered as lying in the R-1 Residential District until such classification shall have been changed by amendment in accordance with the provisions of this ordinance.

## ARTICLE III

### GENERAL REGULATIONS AND PROVISIONS

**60-09 CONFORMANCE REQUIRED.** No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

**60-10 NONCONFORMING USES AND STRUCTURES.** Within the various districts established by this ordinance or amendments that may later be adopted, there exist structures and uses of land and structures which were lawful prior to the adoption of this ordinance but which would be prohibited, regulated, or restricted under the provisions of this ordinance. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses or structures are termed “legal non-conforming uses or structures” and declared by this ordinance to be incompatible with permitted uses in the districts involved and therefore identified for eventual removal.

#### SECTION 300. NON-CONFORMING USE OF LAND, USE OF STRUCTURES, AND STRUCTURES IN ANY RESIDENTIAL DISTRICT.

- a. Non-Conforming Use of Land. The lawful use of land upon which no building or structure is erected or constructed which becomes non-conforming under the terms of this ordinance as adopted or amended may be continued so long as it remains
  1. or amendment of this ordinance;
- b. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel which was not occupied by such use at the effective otherwise lawful, subject to the following provisions:
  2. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
  3. If any such non-conforming use of ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.
- c. Non-Conforming Use of Structures. If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:
  1. No existing structure devoted entirely or in part to a use not permitted by this ordinance in the district in which it is located, except when required by law, shall

be enlarged, extended, reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located;

2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance. No such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, a non-conforming use of a structure may be changed to another non-conforming use of a similar nature within the same or a more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use;
4. In the event that a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned for a period of two (2) years, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land;
5. Any structure devoted to a use made non-conforming by this ordinance that is destroyed by any means to an extent of sixty (60) percent or more of its replacement cost at the time of destruction, exclusive of the foundations, shall not be reconstructed and used as before such happening. If the structure is less than sixty (60) percent destroyed above the foundation, it may be reconstructed and used before provided it be done within six (6) months of such happening, and be built of like or similar materials.

c. Non-Conforming Structures. Where a structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, of other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its non-conformity;
2. Should such structure be destroyed by any means to an extent of sixty (60) percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

#### SECTION 301. NON-CONFORMING USE OF LAND, USE OF STRUCTURES, AND STRUCTURES IN ANY DISTRICT OTHER THAN A RESIDENTIAL DISTRICT.

- a. Non-Conforming Use of Land. The regulations described in Section I (a), shall also apply to this subsection.
- b. Non-Conforming Use of Structures. The regulations described in Section I (b), shall also apply to this subsection with the following exception:

Any structure in any district other than a residential district devoted to a use made non-conforming by this ordinance may be structurally altered or enlarged in

conformity with the lot area, lot coverage, frontage yard, height, and parking requirements of the district in which located, provided such construction shall be limited to buildings on land owned, of record, by the owner of the land devoted to the non-conforming use prior to the effective date of this ordinance. Such structural alteration or enlargement shall not authorize the substitution of a non-conforming use that is less restrictive than the one to which the structure was devoted at the time of passage of this ordinance.

- c. Non-Conforming Structures. The regulations described in Section I (c), shall also apply to this subsection.

#### SECTION 302. REQUIRED REPAIRS AND UNAUTHORIZED NON-CONFORMITIES .

- a. Nothing in this ordinance shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- b. Any use of land, use of structure, or structure, in existence at the time of adoption of this ordinance which was not an authorized non-conformity under any previous zoning ordinance or similar regulations shall not be authorized to continue its non-conforming status pursuant to this ordinance or amendments there to.

**60-11 PERMIT REQUIRED.** Permits are required for all new construction, building alterations, accessory buildings, and concrete work. Permits are also required for signs, fences, swimming pools over 5000 gallons, electrical, plumbing, HVAC/Mech. Permits are not required for windows and siding. All construction must be done by registered and licensed contractors in Iowa, licensed electricians in Iowa, licensed plumbers in Iowa, and licensed HVAC/Mechanical technicians in Iowa.

Building permit applications are available at City Hall. Two sets of building plans must be provided with the application. The applicant must identify the contractor, electrician, plumber, and HVAC technician and their Iowa license numbers on the building permit application. All construction projects will require applicable staking, footing, plumbing, framing, electrical, mechanical, and final inspections. The City requires a minimum 48 hours prior notice to have your project inspected and approved. All building permits are valid for a period of 1 year from the date of issuance. A six-month extension may be obtained for projects having unusual circumstances prohibiting their completion within a one-year period. Projects not completed within the 1½ year period (18 months) will be subject to City Nuisance and Abatement proceedings.

The applicant warrants that he/she is familiar with, understands, and will abide by the provisions of the International Building Code of Ordinances, National Electric Code, Code of Iowa, related rules and the Code of Ordinances of the City of Durant, Iowa: sanitary sewer connections and related matters, water connections and related matters, electrical wiring and related matters, building codes and related matters, and excavation.

#### **60-12 ACCESSORY BUILDINGS.**

Accessory buildings shall comply with the following requirements:

1. A building permit is required for all accessory buildings exceeding 12x12 (144 sq. ft. or larger). A Sketch Plan shall be submitted to clearly illustrate the location, size, height, and architectural look of the proposed building prior to obtaining a building permit.
2. Locating and marking lot lines or property lines for the purpose of ensuring that accessory buildings are constructed meeting the minimum setbacks as stated in this section is the responsibility of the property owner constructing the accessory building.
3. No accessory building may be constructed on a lot prior to the initiation of construction of the principal building or use of the property.
4. Accessory buildings are prohibited in the required front yard, must meet the minimum side yard setback of the district in which it is located, and can be located no closer than eight (8) feet from the side and eight (8) feet from the rear property lines when located in the rear yard.
5. Accessory buildings with garage doors fronting on an alley, or street in the case of a corner lot, must be setback a minimum 20' from said ROW to permit safe access.
6. An accessory building shall not occupy more than forty (40) percent of the rear yard, and shall not exceed sixteen (16) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a garage on a minimum rear yard, provided that such garage does not exceed five hundred seventy-six (576) square feet.
7. All accessory buildings shall be constructed with materials substantially the same as used in the dwelling or building of principal use. All siding used for accessory buildings must be substantially the same material as the siding of the dwelling or building of principal use. The roof pitch of all accessory buildings shall be substantially the same as the pitch of the roof of the dwelling or building of principal use .
8. A building or structure intended for temporary storage shall not be termed an accessory building or accessory structure. No building or structure designed for temporary storage or seasonal use shall be allowed. (Updated/Passed February 21, 2008)
9. Attached or free standing (detached) carports are prohibited by this ordinance.

**60-13 FENCES.** Fences shall comply with the following requirements.

1. A building permit is required for all fences. Locating lot lines or property lines for the purpose of ensuring that fences are constructed on the subject property and not on neighboring property is the responsibility of the property owner constructing the fence.

Fences cannot be constructed in an easement or on public ROW including alleys and shall include invisible fences.

2. Fences and structural walls shall not exceed four (4) feet in height in any front yard and not more than six (6) feet in any side or rear yard. Fences in non-residential districts shall not exceed (12) twelve feet in height in any side or rear yard.
3. Front yards shall extend to the building line or front face of the building for the purpose of this ordinance with fences greater than four (4) feet located equal to and to the rear of the front building line or building face.
4. At street intersections no fence or structural wall more than four (4) feet in height above the street level shall be located within a triangular area composed of two of its sides forty (40) feet in length and measured along the right-of way lines from the point of intersection of the above-referenced lines. No portions of the fence or wall located within the designated forty (40) foot triangular area shall be more than ten percent (10%) solid.
5. All fences shall have the finished side of the fence to the outside for the purpose of an improved look to adjacent properties and roadways. A property owner may elect to finish the interior side or both sides of the fence in certain cases.

**60-14 HOME OCCUPATIONS.** Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home.

This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the Zoning Administrator pursuant to the provisions of this ordinance.

- a. Use Limitations. In addition to all of the limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
  1. Not more than one person who is not a resident on the premises shall be employed by the home occupation.
  2. No home occupation shall occur or be approved for placement or location in an accessory building, including any garage, except as provided in subsection 6.
  3. No more than 25% or 400 square feet of the finished floor area of the dwelling unit, whichever is less, shall be devoted to the home occupation.
  4. No alteration of the principal residential building shall be made which changes the character and /or appearance thereof as a dwelling or dwelling unit.

5. No stock of finished goods, materials for sale or raw materials or combination thereof shall exceed thirty (30) cubic feet at any given time.
  6. The home occupation shall be conducted entirely within the principal dwelling unit or in a permitted building accessory unit.
  7. The home occupation use shall not be readily apparent from any public way.
  8. The outside storage of any equipment, raw materials, finished goods or disposable or demolition products associated with the home occupation shall be prohibited.
  9. Not any more than one (1) commercial vehicle used in connection with any home occupation shall be parked on the property.
  10. All trailers, storage units, travel wagons, and other vehicles or devices designed for the storage of any equipment, raw materials, finished goods or disposable or demolition products associated with the home occupation shall be stored in an enclosed portion of the dwelling associated with home occupation.
  11. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.
  12. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of: a) product preparation or manufacture; b) vehicular traffic generated by the home occupation; c) generation or emission of noise, smoke, dust or other particulate matter; d) generation of malodorous matter; e) generation of heat, humidity, glare or radiation; f) generation of refuse or garbage beyond the refuse or garbage normally associated with a residential dwelling; g) generation of other objectionable materials or emissions.
  13. No sign shall be used to advertise or announce a home occupation except one (1) unlighted sign, not over eight square foot in area shall be allowed; provided, however, that such sign is attached flat against the dwelling and displays only the occupant's name and occupation. The Zoning Administrator shall direct the removal of any sign other than that which allowed under this section.
  14. There shall be no off-premises signs linking the premises with the home occupation.
  15. Radio, television, newspaper, handbill or similar types of advertising linking the premises with the home occupation shall be limited as noted in the permit approving the home occupation.
- b. Home Occupations Permitted. Customary home occupations include, but are not limited to the following list of occupations; provided, however, that each such home occupation shall be subject to the use limitations set forth in this Chapter.
1. Providing personal education instruction to not more than four (4) students at any given time.
  2. Office facilities for accountants, architects, brokers, business consultants, computer consultants, engineers, lawyers, insurance agents, and real estate agents.

3. Office facilities for ministers, priests, rabbis, imams and other recognized religious leaders.
4. Office facilities for salesmen, sales representatives and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.
5. Homebound employment of any person who is challenged or disabled under the definitions contained in the Americans with Disabilities Act.

**60-15 STREET FRONTAGE REQUIRED.** Except as permitted in Section 60-23, of this ordinance no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least twenty (20) feet on at least one public street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least twenty (20) feet wide to a street; and there shall be not more than one (1) single-family dwelling for such frontage or easement, except that a common easement of access at least fifty (50) feet wide may be provided for two (2) or more such single-family dwellings or for one (1) or more two-family or multiple dwellings.

**60-16 REQUIRED YARD.** No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension of area below the minimum required by this ordinance. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this ordinance shall be included as part of a yard, open space, of off-street parking or loading space required under this ordinance for another building, structure, or use.

**60-17 BUILDING ON LOT(S) OF RECORD.** No lot shall be sold or divided if the remaining portion of the lot or property is less than the minimum size requirements of the district in which it is situated, unless it becomes part of an adjacent lot which meets the lot requirements and the remaining portion of the original lot also meets the minimum requirements including required setbacks. An owner of (2) lots of record may place a building on the center portion of both lots or on the lot line, however, both lots become (1) one lot from a zoning standpoint and for future sales purposes. In addition, only (1) one principal detached residential building shall be located on a zoning lot or legal lot of record and shall not be located on the same zoning lot or legal lot of record with any other principal building or non-accessory use of the principal residence. Larger multifamily developments comprised of multiple buildings may be located on the same zoning lot or lot of record in accordance with the bulk regulations of the respective zoning district.

**60-18 CORNER LOTS.** For corner lots, platted or of record after the effective date of this ordinance, the front yard regulation shall apply to each street side of the corner lot. On corner lots platted or of record as of the effective date of this ordinance, the side yard regulation shall apply to the longer street side of the lot, except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than fifty (50) percent of the front yard required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further that this regulation shall not be interpreted to reduce the buildable width



of the corner lot facing an intersecting street of record or as shown by existing contract of purchase as of the effective date of this ordinance, to less than twenty-eight (28) feet nor to prohibit the erection of an accessory building.

**60-19 FRONT YARD.** In all residential districts there shall be a minimum front yard required as stated in the bulk regulations for that particular district; provided, however, that where lots comprising thirty (30) percent or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater or lesser setback, the front yard requirement shall be the average of these building setbacks and the minimum front yard required for the undeveloped lots. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. The required front yard as computed herein need not exceed fifty (50) feet in any case.

**60-20 ZONING DISTRICTS DIVIDING PROPERTY.** Where one (1) parcel of property is divided into two (2) or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the other in its respective zoning classification, and for the purpose of applying the regulations of this ordinance, each portion shall be considered as if in separate and different ownership.

**60-21 PARKING, STORAGE, & RECREATIONAL EQUIPMENT.** For purposes of this ordinance, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and similar uses. For the purpose of this section a trailer is defined as every vehicle without motive power designed for carrying person or property for being drawn by a motor vehicle and so constructed that not part of its weight rests upon the towing vehicle (Per Iowa Code 321.1) No major recreational equipment shall be parked or stored on any lot in a residential district except in a) garage; b) enclosed building; c) in the rear yard area only provided such major recreational equipment shall not be parked or stored closer than ten (10) feet from any rear or side lot line; d) behind the nearest portion of a building to the street. All above described equipment and trailers shall be currently licensed. Provided, however, that such equipment may be parked anywhere on a residential property for a period not to exceed 72 hours during loading and unloading. Parking on a public street is allowed by permit from April 15<sup>th</sup>-October 15<sup>th</sup> for loading and unloading purposes only, and not to exceed 72 hours at such location. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential, commercial, or industrial lot, except by permit from the City Clerk and no more than four (4) times per year per address, one camper per property, for no longer than a 72 hour period provided the campers are parked on private property. Extended periods of time over 72 hours may be granted if after council consideration and approval it is deemed extenuating circumstances exist, and prior to permit application.”

**60-22 PROHIBITED STORAGE OF MOTOR VEHICLES.** Outdoor storage of motor vehicles not currently licensed shall be prohibited in all zoning districts, except motor vehicles held for sale by a licensed motor vehicle dealer at his place of business in a zoning district where motor vehicle sales are permitted

**60-23 EXCEPTIONS AND MODIFICATIONS.** The regulations specified in this ordinance shall be subject to the following exceptions, modifications, and interpretations:

**SECTION 303. USE OF EXISTING LOTS OF RECORD.** In any district where dwellings are permitted, a single family dwelling may be located on any lot or plot of official record as of the effective date of this ordinance irrespective of its area or width; provided, however:

- a. The sum of the side yard widths of any such lot or plot shall not be less than thirty (30) percent of the width of the lot, but in no case less than ten (10) percent of the width of the lot for any one side yard.
- b. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case less than twenty (20 ) feet.

**SECTION 304. STRUCTURES PERMITTED ABOVE THE HEIGHT LIMIT.** The building height limitations of this ordinance shall be modified as follows:

Chimneys, cooling towers, utility poles, elevator bulk-heads, fire towers, monuments, stage towers or scenery lofts, water tanks, churches, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the City of Durant.

**SECTION 305. WATER AND SEWERAGE REQUIREMENTS.** In any district in which residences are permitted and where neither public water supply nor public sanitary sewer is available, the lot area and frontage requirements shall be as follows:

- a. Lot area-twenty thousand (20,000) square feet: lot width at building line-one hundred (100) feet; provided, however, that where a public water supply system is available these requirements shall be fifteen thousand (15,000) square feet, and one hundred (100) feet respectively.
- b. The above requirements shall not apply in subdivision developments, providing private water supply and sewage collection and disposal systems, which have been approved by the Iowa Department of Water, Air and Waste Management.
- c. In all districts where a proposed building, structure or use will involve the use of sewage facilities, and public sewer and /or water is not available, the sewage disposal system and domestic water supply shall comply with all of the requirements and standards of the County Board of Health.

**SECTION 306. DOUBLE FRONTAGE LOTS.** Buildings on through lots extending through from street to street shall provide the required front yard on both streets.

**SECTION 307. OTHER EXCEPTIONS TO YARD REQUIREMENTS.** Every part of a required yard shall be open to the sky, unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and for the ordinary projections of sills, belt courses, cornices, ornamental features and roof overhang projecting not to exceed twenty-four (24) inches, and except for yard recreational and laundry drying equipment, arbors and trellises, flagpoles, yard lights and similar decorative items.

**SECTION 308. MIXED-USE YARD REQUIREMENTS.** In instances where buildings are

erected containing two or more uses housed vertically, the required side yards for the first floor use shall control.

SECTION 309. VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS. On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one half and ten feet above the centerline grades of the interesting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points on said right-of-way lines 40 feet from their point of intersection (see 60-13 Fences).

## ARTICLE IV

### OFF STREET PARKING AND LOADING

**60-24 PARKING REQUIREMENTS FOR ALL DISTRICTS.** In all districts, except the C-1 District, in connection with every industrial, commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons, or employees of the principal use served.

- a. Automobile or Farm Implement Sales and Service garages-1 space for each employee and in no case less than 5 spaces minimum.
- b. Banks, business and professional offices-1 space for each 300 square feet of floor area.
- c. Bed and Breakfast-one (1) space for each bedroom
- d. Bowling Alleys- five (5) spaces for each lane.
- e. Churches and schools- one (1) parking space for every eighty (80) square feet of principal auditorium, including balcony, if any. Where no auditorium is involved, one (1) parking space for each two (2) staff members.
- f. Dance halls, assembly halls- two hundred (200) percent of floor area used for dancing, or assembly.
- g. Dwellings- two (2) parking spaces for each family or dwelling unit.
- h. Funeral homes, mortuaries- one (1) parking space for each five (5) seats in the principal auditorium.
- i. Furniture and appliance stores, household equipment, or furniture repair shops- 1 space for each 200 square feet of sales and display floor area.
- j. Hospitals- One (1) space for each four (4) beds, plus one (1) space for each three (3) employees, plus one (1) space for each two (2) staff doctors.
- k. Hotels, motels, lodging houses- one (1) space for each bedroom.
- l. Manufacturing plants- one (1) parking space for each three (3) employees on the maximum working shift, but in no case less than one (1) space for each one thousand (1000) square feet of gross floor area.
- m. Nursing, convalescent and retirement homes- one (1) space per eight (8) beds, plus one (1) space per three (3) employees, plus one (1) space for each resident staff member.
- n. Restaurants, taverns, and night clubs-1 space for each 100 square feet of floor area.
- o. Retail stores, shops, super markets, etc., over two thousand (2000) square feet floor area-1space for each 200 square feet of sales and display floor area.
- p. Retail stores, shops, super markets, etc. under two thousand (2000) square feet floor area-1 space for each 200 square feet of sales and display floor area .
- q. Theaters, assembly halls with fixed seats- one (1) space for each five (5) seats.
- r. Wholesale establishments or warehouses-one (1) space for each two (2) employees, but in no case less than (1) space for each two thousand (2000) square feet of gross floor area.

SECTION 400. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply.

SECTION 401. Where a parking lot does not abut on a public or private street, alley or easement of access, there shall be provided an access drive not less than ten (10) feet in width in case of a dwelling, and not less than sixteen (16) feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question; provided, however; such easement of access or access drive shall not be located in any residence district, except where serving a permitted use in a residence district.

SECTION 402. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

- a. No part of any parking space shall be closer than five (5) feet to any established street right-of-way line. In case the parking lot adjoins an "R" District, it shall be set back at least ten (10) feet from the "R" District boundary and shall be effectively landscaped and screen planted.
- b. All required off-street parking areas and access drives, including access to garages, storage units, and loading and unloading areas shall be surfaced with asphaltic or Portland cement binder pavement or similar surface, so as to provide a durable and dustless surface. They shall be graded and drained to dispose of all surface water accumulation within the area, and shall be arranged and marked to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.
- c. Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any "R" District.

SECTION 403. Off-street parking areas in residential districts shall be provided on the same lot with the principal use. Off-street parking and loading areas may occupy all or part of any required yard or open space, subject to the provisions of this Article; except that no required off-street parking or loading areas shall be located in any required front yard in a residence district. This provision shall not prohibit parking on a driveway leading to a required off-street parking space.

**60-25 OFF-STREET LOADING SPACES REQUIRED.** In any district, in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area, so used, in excess of ten thousand (10,000) square feet.

- a. Each loading space shall be not less than twelve (12) feet in width and forty (40) feet in length.
- b. Such space may occupy all or any part of any required yard or open space, except where adjoining an “R” District, it shall be set back at least ten (10) feet and be effectively landscaped and screened to visibly shield from adjoining residential properties. Said screening shall be a minimum (4) four feet in height and may utilize wall, fencing, and berming in addition to natural landscape materials such as trees and shrubs. Such screening material shall be designed to provide 75% opacity one year after planting for the required height and length of the screening buffer.

## ARTICLE V

### ZONING DISTRICT REQUIREMENTS

#### **60-26 R-1 RESIDENTIAL DISTRICT.** (Single Family Dwelling District)

Statement of Intent. The R-1 District is intended and designed to provide for certain low density residential areas of the City now developed with single family dwellings and areas where similar residential development seems likely to occur.

**SECTION 500. PRINCIPAL PERMITTED USES.** Only the use of structures or land listed in this section shall be permitted in the R-1 District.

- a. Single Family dwellings.
- b. Churches, chapels, temples, and similar places of worship; provided that all principal buildings be set back a minimum of thirty-five (35) feet from all property lines.
- c. Public and parochial schools, elementary and secondary, and other educational institutions having an established current curriculum as ordinarily given in the Durant public schools; provided that all principal buildings be set back a minimum of thirty-five (35) feet from all property lines.
- d. Publicly owned parks, playgrounds, golf courses, community centers, and recreation areas.
- e. Private non-commercial recreational areas, including country clubs, swimming pools, tennis clubs and ball fields.
- f. Electrical and natural gas transmission and regulating facilities, subject to hearing and approval by the Board of Adjustment.
- g. Agricultural uses, including nurseries, greenhouses and truck gardens; provided that no offensive odors or dust are created and that no retail sales shall be permitted on the premises, and provided further, that the raising and keeping of livestock or poultry, including feed lots, shall not be permitted within 200 feet of property platted and developed for residential use.

**SECTION 501. PERMITTED ACCESSORY USES.**

- a. Use of land or structures customarily incidental and subordinate to one of the permitted principal uses, unless otherwise excluded.
- b. Private garage or carport.
- c. Home occupations as permitted in and as limited by Section 502.
- d. The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed three (3) per building.
- e. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- f. Temporary use of a dwelling structure within a new subdivision as a job office and real estate office for the subject subdivision, which use shall terminate upon completion or abandonment of the project.

- g. One board or sign not to exceed fifty (50) square feet in area referring to the construction, lease, hire, or sale of a building, premises, or subdivision lots; which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed.
- h. Church bulletin boards.
- i. Day nurseries and nursery schools.

SECTION 502. SPECIAL USES: The following uses may be appropriate with the review and approval of a Special Use Permit issued by the Board of Adjustment per Article XVII. Special Use Permits.

- a. Bed and Breakfast

SECTION 503. BULK REGULATIONS. The following minimum requirements shall be observed subject to the modifications contained in Article III.

- a. Lot Area: Single family dwelling- 7000 square feet.
- b. Lot Width: Single family dwelling-60 feet.
- c. Front Yard: 25 feet.
- d. Side Yards: 16 feet, minimum on one side-8  
Churches and schools- 35 feet on each side.
- e. Rear Yard: 35 feet.
- f. Maximum Height: Principal building- 35 feet  
Accessory building- 12 feet
- g. Maximum No. of stories: Principal building-3 stories  
Accessory building- 1 story

SECTION 504. OFF-STREET PARKING AND LOADING. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Article IV.

SECTION 505. LANDSCAPING REQUIREMENT. See Article VIII Landscaping Requirements.

**60-27 R-1A RESIDENTIAL DISTRICT.** (Single and Two Family Dwelling District)

Statement of Intent. The R-1A District is intended and designed to provide for certain medium density residential areas now developed with one family and two family dwellings, and areas where similar residential development seems likely to occur.

SECTION 506. PRINCIPAL PERMITTED USES. Only the use of structures or land listed in this section shall be permitted in the R-1A District.

- a. Any use permitted in the R-1 District.
- b. Two family dwellings.



- c. Conversions of single family dwellings into two family dwellings in accordance with the lot area, frontage, height and yard requirements of this article.

SECTION 507. PERMITTED ACCESSORY USES.

- a. Accessory uses permitted in and as limited in the R-1 District

SECTION 508. SPECIAL USES: The following uses may be appropriate with the review and approval of a Special Use Permit issued by the Board of Adjustment per ARTICLE VI.

SPECIAL USE PERMITS.

- a. Bed and Breakfast

SECTION 509. BULK REGULATIONS. The following minimum requirements shall be observed subject to the modifications contained in Article III, 8-1-23.

- a. Lot Area: Single family dwelling- 7000 square feet.  
Two family dwelling-9000 square feet.
- b. Lot Width: Single family dwelling- 60 feet.  
Two family dwelling- 64 feet.
- c. Front Yard: 25 feet.
- d. Side Yards: 1 and 1½ stories; total side yard- 16 feet, minimum on one side- 8 feet. 2 and 3 stories; total side yard-20 feet, minimum on one side- 10 feet. Churches and schools- 35 on each side.
- e. Rear Yard: 35 feet.
- f. Maximum Height: Principal building- 35 feet  
Accessory building- 12 feet
- g. Maximum No. of stories: Principal building- 3 stories  
Accessory building- 1 story

SECTION 510. OFF-STREET PARKING AND LOADING. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Articles IV.

SECTION 511. LANDSCAPING REQUIREMENT. See Article VIII Landscaping Requirements.

**60-28 R-2 RESIDENTIAL DISTRICT.** (Multiple Family Dwelling District)

Statement of Intent. The R-2 District is intended and designed to provide for certain high density residential area of the City now developed with multiple family dwellings and areas where similar residential development seems likely to occur.

SECTION 512. PRINCIPAL PERMITTED USES. Only the use of structures or land listed in this section shall be permitted in the R-2 District.

- a. Any use permitted in R-1 and R-1A Districts.
- b. Multiple dwellings, including row dwellings and condominium dwellings.
- c. Boarding and rooming houses.
- d. Institutions of a religious, educational, or philanthropic dwellings.

- e. Hospitals and nursing, convalescent and retirement homes.
- f. Private clubs, lodges, or veterans organizations, excepting those holding a beer permit or liquor license.

**SECTION 513. PERMITTED ACCESSORY USES.**

- a. Accessory uses permitted in and as limited in the R-1 District.

**SECTION 514. SPECIAL USES:** The following uses may be appropriate with the review and approval of a Special Use Permit issued by the Board of Adjustment per Article VI. **SPECIAL USE PERMITS.**

- a. Bed and Breakfast

**SECTION 515. BULK REGULATIONS.** The following minimum requirements shall be observed subject to the modifications contained in Article III, 8-1-23.

- a. Lot area:                   Single family dwelling- 7000 square feet.  
                                      Two family dwelling- 8000 square feet.  
                                      Multiple family dwelling or other permitted use-  
                                      10,000 square feet.
- b. Lot area per               Row Housing and Multiple Dwellings-2500 square feet.  
dwelling unit:
- c. Lot width:                 Single family dwelling- 60 feet  
                                      Two family dwelling-60 feet  
                                      Row housing units- 20 feet  
                                      Multiple family dwelling and other permitted uses- 80 feet.
- d. Front Yard:               25 feet.
- e. Side Yards:               1 and 1½ stories; total side yard-16 feet, minimum on one side-8  
feet. 2 and 2½ stories; total side yard-20 feet, minimum on one  
side-10 feet. 3 stories or more, up to 45 feet; total side yard-25 feet,  
minimum on one side-12 feet.
- f. Rear Yard:                 35 feet.
- g. Maximum Height:       Principal building- 45 feet.  
                                      Accessory building- 12 feet
- h. Maximum No.             Principal building- 4 stories  
of Stories:                   Accessory building- 1 story

**SECTION 516. OFF –STREET PARKING AND LOADING.** Spaces for off-street parking and loading shall be provided in accordance with the provisions of Articles XIV and XV.

**SECTION 517. LANDSCAPING REQUIREMENT.** See Article VIII Landscaping Requirements.

**60-29 R-3 MOBILE HOME PARK DISTRICT REGULATIONS**

Statement of Intent. The R-3 District is intended and designed to provide for certain high density residential areas of the City for the development of mobile home parks, which by reason of their  
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design and location will be compatible with nearby residential areas.

SECTION 518. PRINCIPAL PERMITTED USES. Only the use of structures or land listed in this section shall be permitted in the R-3 District.

- a. Any use permitted in the R-1 District.
- b. Mobile home parks, in accordance with the provisions of this section and applicable state statutes.

SECTION 519. PERMITTED ACCESSORY USES.

- a. Accessory uses permitted in and as limited in the R-1 District.
- b. Accessory buildings as may be required by state statute.
- c. One indirectly lighted sign may be erected facing each public street on which the mobile home park fronts, showing the name of the mobile home park and other information pertinent thereto; provided that such sign shall not have an area of more than twenty (20) square feet.

SECTION 520. BULK REGULATIONS. The following minimum requirements shall be observed subject to the modifications contained in Article III, 8-1-23.

- a. For any permitted use excepting a mobile home park, the minimum requirements shall be the same as those set out for the R-1 District.
- b. For any mobile home park area the requirements shall be as follows:
  1. The minimum total mobile home park area shall be three (3) acres;
  2. Each yard abutting on a public street shall be considered a front yard and shall be a minimum of fifty (50) feet;
  3. All other yards, whether side or rear, shall be a minimum of fifty (50) feet when adjacent to any other "R" district and thirty (30) feet when adjacent to a "C" or "I" district;
  4. The minimum lot space for each mobile home shall be 4000 square feet and shall measure at least fifty (50) by eighty (80) feet;
  5. Mobile homes shall be located on each space so that there will be at least a twenty (20) foot clearance between each mobile home, a five (5) foot open space between the mobile home including any permanently enclosed appendage, and any driveway, walkway, or mobile home space boundary; and a ten (10) foot open space at the rear of the mobile home.

SECTION 521. PLAN REQUIRED. Each petition for a change to the R-3 zoning classification submitted to the City Council shall be accompanied by a mobile home park plan. Said plan shall show each mobile home space, the water, electrical and sewer lines serving each mobile home space, the location of fire hydrants, service buildings, driveways, walkways, recreation areas, required yards, parking facilities, lighting and landscaping. If public water and sanitary sewerage facilities are not available to the mobile home park site, private water and sewerage systems shall be provided in accordance with the requirements of the Iowa Department of Water, Air and Waste Management subject to approval of the City Council. The plan shall be considered by the Planning and Zoning Commission and the City Council, who may approve or disapprove said plan or require such plans thereto, as are deemed necessary to effectuate the intent and purpose of this ordinance.

All changes to the R-3 classification shall be made in accordance with the provisions of Article X, 8-1-41, of this ordinance.

SECTION 522. LANDSCAPING REQUIREMENT. The mobile home park plan shall include a landscape plan component clearly illustrating proposed landscaping throughout the site including adequate perimeter landscaping and screening from adjacent uses. See Article VIII Landscaping Requirements.

### **60-30 RT-1 RESIDENTIAL TRANSITIONAL DISTRICT.**

Statement of Intent. The RT-1 District is intended to accommodate residential uses and certain low intensity commercial uses, such as professional office uses, in a mutually compatible environment. The District is designed to recognize the continued residential use of existing structures while permitting the conversion of such structures for limited commercial use. The district may serve as a buffer or transitional area between residential neighborhood areas and more intensive commercial areas.

SECTION 523. PRINCIPAL PERMITTED USES. Only the use of structures or land listed in this section shall be permitted in the RT-1 District.

a. Residential uses:

1. Single-family detached dwellings.
2. Two-family dwelling.
3. Multiple-family dwellings.
4. Any use permitted in the R-1 District.

b. Commercial uses:

1. Professional office establishments such as, but not limited to, accounting offices, dental and medical offices, engineers and architects offices, law offices, real estate offices, and insurance offices.
2. Limited commercial retail uses including antique shops, art galleries, apparel shops, craft and hobby shops, book and stationary shops, gift shops, and florist shops.
3. Limited commercial service uses including barber and beauty shops, music and art studios, photographer studio, tailors and dressmakers, and pet shops.

SECTION 524. PERMITTED ACCESSORY USES

- a. Accessory uses and structures customarily incidental to any principal permitted use.
- b. Accessory uses permitted in the R-1 District.

SECTION 525. BULK REGULATIONS.

- a. As required in Section 509.

SECTION 526. OTHER PROVISIONS.

- a. Off-Street Parking shall be provided according to the provisions of Article IV.
- b. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than (10) percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.
- c. Outdoor Sales areas shall be delineated and not impact parking or drive areas.
- d. Open Storage shall be screened from adjoining properties and roadways.
- e. Signs (as permitted).
- f. Site Plans (as required).
- g. Existing Lots of record. Existing lots of record that may be small in size and would not meet minimum lot size requirements will be recognized as legal lots of record in the RT-1 District and permit the reasonable construction and rebuilding of structures on such lots.

SECTION 527. LANDSCAPING REQUIREMENT. See Article VIII Landscaping Requirements.

**COMMERCIAL DISTRICTS**

**60-31 C-1 CENTRAL BUSINESS DISTRICT.** (Central Commercial District)

Statement of Intent. The C-1 District is intended to provide for the general retail shopping of persons living in Durant and the surrounding rural areas. The District is designed to include the business district area. Uses permitted are similar to the C-2 District, however, bulk regulations are not required, due to the density of the existing development.

SECTION 528. PRINCIPAL PERMITTED USES. Only the use of structures of land listed in this section shall be permitted in the C-1 District.

- a. Retail business or service establishments such as the following:
  1. Antique shops.
  2. Apparel shops
  3. Art shops
  4. Automobile accessory shops.
  5. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sale lots). This paragraph shall not be construed to include automobile, tractor or machinery wrecking and rebuilding and used parts yards.
  6. Bakeries or bakery outlets, retail sales only.
  7. Banks, savings and loan associations and similar financial institutions.

8. Barber shops and beauty parlors.
9. Bicycle shops, sales and repair.
10. Billiard parlors and pool halls.
11. Book Stores.
12. Bowling Alleys.
13. Camera stores.
14. Carpenter and cabinet making shops.
15. Churches
16. Clothes cleaning and laundry pick-up stations.
17. Confectionary stores, including ice cream or snack bars.
18. Dairy Stores, retail only.
19. Delicatessens.
20. Department stores.
21. Dance halls.
22. Dance studios.
23. Drug stores.
24. Dry goods stores.
25. Florist shops.
26. Funeral homes and mortuaries.
27. Furniture stores.
28. Gas stations.
29. Garages for general motor vehicle repair.
- 29a. Garages for general motor vehicle body repair.
30. Gift shops.
31. Grocery stores, including supermarkets.
32. Hardware stores.
33. Hobby shops.
34. Hotels and motels.
35. Household appliances, sale and repair.
36. Jewelry stores and watch repair shops.
37. Launderettes, coin-operated dry cleaning establishments, and dry cleaning or pressing establishments using only non-flammable solvents.
38. Lawn mower repair shops.
39. Locker plant for storage and retail sales only.
40. Leather goods stores.
41. Liquor stores.
42. Music stores and music studios.
43. Office buildings.
44. Paint and wallpaper stores.
45. Pet shops.
46. Photographic studios, printing and developing establishments.
47. Plumbing and heating shops.
48. Post offices.
49. Printing and lithographing shops.

- 50. Public auction rooms.
  - 51. Radio and television sales and repair shops.
  - 52. Restaurants.
  - 53. Sheet metal shops.
  - 54. Shoe and hat repair shops.
  - 55. Sporting goods stores.
  - 56. Tailor and dressmaking shops.
  - 57. Taverns and nightclubs.
  - 58. Theaters.
  - 59. Toy stores.
  - 60. Upholstering shops.
  - 61. Used car sales lots.
  - 62. Variety stores.
  - 63. Veterinary clinics.
- b. Combinations of the above uses.
  - c. Medical and dental clinics.
  - d. The office of a doctor, dentist, osteopath, chiropractor, optometrist, or similar profession.
  - e. Business and professional offices including the following: law, engineering, architecture, real estate, contractor, insurance, accounting and bookkeeping and similar uses.
- f. Single family residential quarters which are located above the ground floors of a building with the provision that three (3) off street parking places be available for each residence location. No living quarters shall be permitted on the ground floor of a building located in a C-1 District.

**SECTION 529. PERMITTED ACCESSORY USES.**

- a. Accessory uses and structures customarily incidental to any principal permitted use.
- b. Combinations of the above uses.
- c. Medical and dental clinics.
- d. The office of a doctor, dentist, osteopath, chiropractor, optometrist or similar profession.
- e. Business and professional offices including the following: law, engineering, architecture, real estate, contractor, insurance, accounting and bookkeeping and similar uses.
- f. Single family residential quarters which are located above the ground floors of a building with the provision that three (3) off street parking places be available for each residence location. No living quarters shall be permitted on the ground floor of a building located in a C-1 District.

**SECTION 530. BULK REGULATIONS.** The following minimum requirements shall be observed subject to the modifications contained in Article XVI.

- a. Lot Area: No minimum requirement.
- b. Lot Width: No minimum requirement.
- c. Front Yard: No minimum requirement.
- d. Side Yards: No minimum requirement except when adjoining any "R" district, in which case Ten (10) feet.

- e. Rear Yard: None required, except when adjoining any “R” district, in which case twenty-five (25) feet.
- f. Max Height: 45 feet.
- g. Max No. of Stories: 4 stories.

SECTION 531. LANDSCAPING REQUIREMENT. See Article VIII Landscaping.

SECTION 532. SIGN REQUIREMENTS. The downtown or central business district is intended to present a quaint, attractive and pedestrian friendly character and therefor signage is controlled to help to achieve this design theme. Creativity and uniformity of signage is encouraged in the downtown area to create a unique image and visual identity for visitors and citizens alike.

- a. No billboards allowed.
- b. Exterior signs located on the street frontages of building shall refer only to a use or uses located within such building, and attached or integral thereto , provided that:
  - 1. Such signs shall not have an aggregate surface area in excess of twenty (20) percent of the total surface area of the building elevation to which they are attached.;
  - 2. Signs which project out from the building more than eighteen (18) inches must be at least twelve (12) feet above the grade and may project a maximum of six feet;
  - 3. No sign shall project more than four (4) feet above the roof line or parapet where one exists.
- c. One free standing or post sign referring only to a uses or uses, conducted on the premises may be erected in any yard abutting a public street, provided however:
  - 1. That such sign shall not have a surface area in excess of one hundred (100) square feet on any one side and not more than two sides of said sign shall be used for advertising purposes;
  - 2. The bottom of the surface area of such sign shall not be less than twelve (12) feet above the ground surface upon which it is erected, unless said sign is set back at least twenty (20) feet from the street right-of-way line. The Zoning Administrator may permit the location of a ground sign, in lieu of a post sign, or a post sign less than twelve (12) feet above the ground surface within twenty (20) feet of the street right-of-way line; provided that the size and location of said sign will not obstruct or impair the visibility of pedestrians or motorists. No part of a post sign shall be located on or project over the right-of-way line of any street.
  - 3. A directory sign may be substituted in place of a ground sign or post sign, subject to the requirements set for the in d.1.and d.2.above.



**60-32 C-2 GENERAL BUSINESS DISTRICT.** (General Commercial District)

Statement of Intent. The C-2 District is intended to provide for general commercial areas outside of the business district. These districts include much of the commercial property existing along the major streets of the City. The uses permitted are intended to accommodate both the local retail consumer and the automobile traveling public.

**SECTION 533. PRINCIPAL PERMITTED USES.** Only the use of structures or land listed in this section shall be permitted in the C-2 District.

- a. Any use permitted and as limited in the C-1 District.
- b. Retail, service, or recreational uses, such as the following:
  1. Animal hospitals, veterinary clinics or kennels; provided no exercising runway shall be at least two hundred (200) feet from any “R” District boundary.
  2. Commercial swimming pools, skating rinks, golf driving ranges, miniature golf courses and similar recreational uses and facilities.
  3. Car wash.
  4. Drive- in restaurants.
  5. Drive-in theaters.
  6. Lumber yard.
  7. Monument sales yards.
  8. Rental Storage Units as Special Use only and prohibited on Main Street.
- c. Combinations of the above services.
- d. Billboards and outdoor advertising signs, subject to the following provisions:
  1. All yard and height requirements for a permitted principal structure shall be complied with; provided however, that when a billboard is erected between two buildings that are within 100 feet of the structure, no part of said billboard shall be located closer to any street right-of-way line than a line drawn from the nearest front corner of the two buildings.
  2. The surface area on any one side shall not exceed 300 square feet in area. Double faced signs shall be permitted. If a single faced sign is erected the back shall be suitably painted or otherwise covered to present a neat and clean appearance.
  3. The ground area around the billboard structure shall be kept clean and all scrub brush and tall grass shall be cleared away to a distance of at least ten feet to the rear and sides of the structure and to the front property line, and if on a corner lot to both property lines.
  4. Billboards attached to a building shall not project above the roof line of the building or be located on the roof of a building.
  5. Billboards located on the same street, facing the same traffic flow shall not be located closer together than 600 feet. Each side of a double faced sign shall be considered as facing traffic flowing in the opposite direction.

**SECTION 534. PERMITTED ACCESSORY USES.**

- a. Accessory uses and structures customarily incidental to any principal permitted use.

- b. Storage of merchandise incidental to the principal use.
- c. Exterior signs located on the street frontages of principal referring only to a use or uses located within such building, and attached or integral thereto , provided that:
  - 4. Such signs shall not have an aggregate surface area in excess of twenty (20) percent of the total surface area of the building elevation to which they are attached.;
  - 5. Signs which project out from the building more than eighteen (18) inches must be at least twelve (12) feet above the grade and may project a maximum of six feet;
  - 6. No sign shall project more than four (4) feet above the roof line or parapet where one exists.
- d. One free standing or post sign referring only to a uses or uses, conducted on the premises may be erected in any yard abutting a public street, provided however:
  - 4. That such sign shall not have a surface area in excess of two hundred (200) square feet on any one side and not more than two sides of said sign shall be used for advertising purposes;
  - 5. The bottom of the surface area of such sign shall not be less than twelve (12) feet above the ground surface upon which it is erected, unless said sign is set back at least twenty (20) feet from the street right-of-way line. The Zoning Administrator may permit the location of a ground sign, in lieu of a post sign, or a post sign less than twelve (12) feet above the ground surface within twenty (20) feet of the street right-of-way line; provided that the size and location of said sign will not obstruct or impair the visibility of pedestrians or motorists. No part of a post sign shall be located on or project over the right-of-way line of any street.
  - 6. A directory sign may be substituted in place of a ground sign or post sign, subject to the requirements set for the in d.1.and d.2.above.

SECTION 535 BULK REGULATIONS. The following minimum requirements shall be observed subject to the modifications contained in ARTICLE III, 8-1-23.

- a. Lot Area: No Minimum requirement.
- b. Lot Width: No Minimum requirement.
- c. Front Yard: 25 feet.
- d. Side Yards: None required, except when adjoining any “R” District or street right-of-way line, in which case twenty-five (25) feet.
- e. Rear Yard: 25 feet; provided, however, that for every foot the front yard is increased over twenty-five (25) feet, the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than (10) feet. Where a railroad right-of-way is immediately adjacent to the rear of the lot, the rear yard requirement need not apply.
- f. Max Height: 45 feet.
- g. Max No. of Stories: 4 stories.

SECTION 536. MINIMUM OPEN SPACE. The total land area devoted to open space and

landscaping shall not be less than ten (10) percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

SECTION 537. OFF –STREET PARKING AND LOADING. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Article IV.

SECTION 538. SITE PLANS. Site plans shall be required in accordance with the provisions of Article VII for all uses permitted in this district.

SECTION 539. LANDSCAPE REQUIREMENTS. See Article VIII Landscaping Requirements.

## INDUSTRIAL DISTRICTS

### **60-33 I-1 LIGHT INDUSTRIAL DISTRICT.** (Light Industrial District)

Statement of Intent. The I-1 District is intended and designed to provide area of the City suitable for activities and uses of a light industrial nature. It is not intended that any new residential development be permitted in the I-1 District.

SECTION 540. USES PERMITTED. Only the use of structures or land listed in this section and uses of a like or similar nature shall be permitted in the I-1 District.

- a. Any use permitted in the C-2 District.
- b. Bag, carpet and rug cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
- c. Bakeries.
- d. Welding or other metal working shops.
- e. Carting, express, hauling or storage yards; contractor's equipment and materials storage yards.
- f. Concrete mixing, concrete products manufacture (wholesale), ice manufacturing and cold storage plant.
- g. Creamery, bottling works, ice cream manufacturing (wholesale), ice manufacturing and cold storage plant.
- h. Enameling, lacquering or japanning.
- i. Laboratories; research, experimental and testing.
- j. Lumber yards and building material sales yards.
- k. Machine shops.
- l. Manufacture of musical instruments and novelties.
- m. Manufacture or assembly of electrical appliances, instruments and devices.
- n. Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

- o. Manufacture and repair of electric signs, advertising structures, sheet metal products, including heating and ventilating equipment.
- p. Milk distribution station.
- q. Manufacture of wood products not involving chemical treatment.
- r. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour and the rendering or refining of fats and oils.
- s. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns and wood.
- t. Storage and sale of livestock feed, providing dust is effectively controlled.
- u. Flammable liquids, underground storage only, not to exceed 40,000 gallons provided it is located at least 200 feet from any "R" District.
- v. Wholesale storage and warehouse establishments including rental storage units.

**SECTION 541. PERMITTED ACCESSORY USES.**

- a. Signs permitted in and as limited by the C-2 District regulations.
- b. Accessory uses customarily incidental to a permitted principal use.

**SECTION 542. REQUIRED CONDITIONS.** No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.

**SECTION 543. BULK REGULATIONS.** The following minimum requirements shall be observed subject to the modifications contained in Article III.

- a. Front Yard: 25 feet.
- b. Side Yards: None required, except when adjacent to any "R" District, or street right-of-way line; in which case twenty-five (25) feet.
- c. Rear Yard: Twenty-five (25) feet, provided, however, that for every foot the front yard is increased over twenty-five (25), the rear yard may be decreased in direct proportion thereto, but in no case shall the rear yard be less than ten (10) feet. Where a railroad right of way is immediately adjacent to the rear of the lot, the rear yard requirement need not apply.
- d. Max. Height: 50 feet.
- e. Maximum No. of stories: No limitation.

**SECTION 544. MINIMUM OPEN SPACE.** The total land area devoted to open space and landscaping shall not be less than (10) percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the

landscaping theme.

SECTION 545. OFF-STREET PARKING AND LOADING. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Article IV.

SECTION 546. SITE PLANS. Site Plans shall be required in accordance with the provisions of Article VII for all uses permitted in this district.

SECTION 547. LANDSCAPE REQUIREMENTS. See Article VIII Landscaping Requirements.

**60-34 I-2 HEAVY INDUSTRIAL DISTRICT.** (Heavy Industrial District)

Statement of Intent. The I-2 District is intended and designed to provide areas of the City for activities and uses of a heavy industrial character. Since this is the least restrictive of any district, almost any use is permissible, with the exception of a small number of uses which by reason of certain undesirable characteristics require approval of a Special Use Permit by the Board of Adjustment. In addition, no residential uses are permitted.

SECTION 548. PRINCIPAL PERMITTED USES. All uses permitted in the I-1 District. A building or premises may be used for any purpose whatsoever provided the regulations listed in subparagraphs a, b, and c below are met:

- a. No Certificate of Occupancy shall be issued for any use in conflict with any ordinance of the City of Durant or law of the State of Iowa regulating nuisances.
- b. No Certificate of Occupancy shall be issued for any dwelling, school, hospital, clinic, or other institution for human care, except where incidental to a permitted principal use.
- c. The uses hereinafter listed may be permitted subject to approval of a Special Use Permit by the Board of Adjustment after public hearing. In its determination upon the particular uses at the location requested, the Board shall consider all of the following provisions:
  1. That the proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property. To this end the Board may require that appropriate landscaping, walls, fences or other artificial screens be provided as buffers to minimize the effects of these uses on adjoining or surrounding property;
  2. That such use shall not impair an adequate supply of light and air to surrounding property;
  3. That such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
  4. That such use shall not diminish or impair established property values in adjoining or surrounding property; and

5. That such use shall be in accord with the intent, purpose and spirit of this ordinance and the Comprehensive Plan of the City of Durant.

The uses subject to the above provisions are as follows:

- (a) Packing houses, slaughter houses and/or stock yards.
- (b) Acid manufacture or wholesale storage of acids.
- (c) Anhydrous ammonia storage and /or pumping facilities.
- (d) Automobile, tractor or machinery wrecking and used parts yards; provided that any wrecking operation is carried on within a building completely enclosed with walls and roof and the yard completely enclosed with a wall or fence, reasonably maintained, at least six (6) feet high completely obscuring the activity. There shall be only one opening in the wall or fence facing any public street for each two hundred (200) feet of length.
- (e) Cement, lime, gypsum or plaster of paris manufacture.
- (f) Distillation of bones.
- (g) Explosive manufacture or storage.
- (h) Fat rendering
- (i) Fertilizer manufacture.
- (j) Garbage, offal or dead animal reduction.
- (k) Gas manufacture and cylinder recharging.
- (l) Glue, size or gelatin manufacture.
- (m) Junk, iron or rags, storage or baling, and waste paper yards, where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence not less than six (6) feet in height, completely obscuring the activity.
- (n) Petroleum or its products refining or wholesale storage of, and asphalt plants.
- (o) Rubber goods manufacture.
- (p) Sand or gravel pits.
- (q) Smelting of tin, copper, zinc or iron ores.
- (r) Transmitting stations
- (s) Wholesale storage of gasoline and other flammable liquids.

#### SECTION 549. REQUIRED CONDITIONS.

- a. The best practical means known for the disposal of refuse matter or water carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance, shall be employed.
- b. All principal or accessory structures housing a use permitted only in the I-2 District shall be located at least two hundred (200) feet from any "R" District.
- c. All signs shall meet the requirements of the C-2 District regulations.

SECTION 550. BULK REGULATIONS. The following minimum requirements shall be observed subject to the modifications contained in Article XVI.

- a. Front Yard: 40 feet.
- b. Side Yards: None required except when adjacent to any street right-of-way line, in which case twenty-five (25) feet.

- c. Rear Yard: Forty (40) feet; except that where a railroad right-of-way lies immediately adjacent to the rear of the lot, the rear yard requirement need not apply.
- d. Maximum Height: 50 feet.
- e. Maximum No. of stories: No limitation.

SECTION 551. MINIMUM OPEN SPACE. The total land area devoted to open space and landscaping shall not be less than ten (10) percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

SECTION 552. OFF-STREET PARKING AND LOADING. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Article IV.

SECTION 553. SITE PLANS. Site Plans shall be required in accordance with the provisions of Article XVIII for all uses permitted in this district.

SECTION 554. LANDSCAPE REQUIREMENTS. See Article VIII Landscaping.

## ARTICLE VI

### SPECIAL USE PERMITS

**60-35 SPECIAL USE PERMITS.** Certain uses are only allowed by the issuance of a special use permit (conditional use permit). Such uses may or may not be appropriate at a specific location due to their characteristics and unusual nature which may give rise to unique problems with respect to their impact upon neighboring property or public facilities. A careful and thorough review is required to ensure that such uses can be established in a manner consistent and compatible with adjacent uses in the area. Approvals of special use permits typically include conditions within the permit to ensure both immediate and long term compatibility with the neighboring uses.

SECTION 600. PERMITS AUTHORIZED. The Board of Adjustment may by special use permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this ordinance.

- a. Any public building erected and used by any department of the City, township, county, state or federal government.
- b. Airport or landing field.
- c. Community building.
- d. Hospitals, non-profit fraternal institutions, provided they are used solely for fraternal purposes, and institutions of an educational, religious, or philanthropic character.

- e. Public or private cemetery.
- f. Bed and Breakfast ( R-1, R-1A, and R-2, Districts only-sign per Home Occupation).
- g. Rental Storage Units in C-2 District except prohibited on Main Street.
- h. Other uses not listed as permitted uses or a use by right in a particular zoning district but considered to be reasonable and appropriate at a particular location by the City Council may be directed to the Board of Adjustment for consideration.

Before issuance of any special use permit for any of the above buildings or uses, the Board shall direct such request to the Planning and Zoning Commission for review and recommendation. The Board shall then review the conformity of the proposal with the standards of the Comprehensive Plan, and with recognized principles of engineering design, land use planning and landscape architecture. The Board may approve or disapprove the special use permit as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the proposal as the board deems necessary to the end that it preserve the intent and purpose of this ordinance to promote public health, safety and the general welfare.

Applications for a special use permit under the terms of this section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings, the area to be developed for parking, the locations of sidewalks and driveway and the points of ingress and egress, including access streets where required, the location and height of the walls, the location and type of landscaping and the location, size and number of signs. In the event a special permit is granted under the terms of this section, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.



## ARTICLE VII

### SITE PLAN REQUIREMENTS

**60-36 SITE PLAN REQUIREMENTS.** A site plan is a graphic display which visually shows what is proposed to be developed on a particular piece of property. It is intended to assist a developer and/or property owner by illustrating and clarifying to City Staff, City Council, the Planning Commission and/or Board of Zoning Adjustment, and other interested parties what is being proposed on a property. The site plan is to assure that the design and location of commercial and industrial areas, including special uses as outlined herein, will be in conformance with the zoning standards of this ordinance, will be well designed, and will be respecting of neighboring property interest. The site plan shall be submitted for approval by the City Council after review and recommendation by the Planning and Zoning Commission. Special uses reviewed by the Board of Adjustment will include the submittal and review of a site plan as well to ensure compatibility with adjoining uses which may include residential as well as neighboring commercial, industrial, or public use.

#### SECTION 700. PROCEDURE.

- a. Whenever any person, firm, corporation or other group wishes to develop any tract, lot or parcel of land within the City of Durant, located in the RT-1, C-1, C-2, I-1, or I-2 zoning districts, he shall cause to be prepared a site plan of such development and shall submit ten (10) copies of said site plan to the City Clerk. The provisions of this section shall also be applicable to the redevelopment, enlargement or extension of any commercial or industrial uses and structures existing at the time of adoption of this ordinance including special uses as allowed. The site plan shall contain such information and data as outlined herein.
- b. The City Clerk shall refer a copy of the site plan to the City Planner, City Engineer, or such other person as shall be designated from time to time by the City Council, who shall review said site plan as to its compliance with the ordinances of the City, its effect upon public utilities and the public street system, and submit his/her findings as soon as possible to the Planning and Zoning Commission.
- c. The City Clerk shall also forward a copy of the site plan to each member of the Planning and Zoning commission. The Planning and Zoning Commission shall, after receiving the engineer's report, review the site plan for conformity with the regulations and standards contained herein, and may confer with the developer on changes deemed advisable in such site plan.
- d. The Planning and Zoning Commission shall forward its recommendation either for approval or disapproval of the site plan to the City Council within forty-five (45) days of the date of the submission of the said site plan. If the commission does not act within forty-five (45) days, the site plan shall be deemed to be approved by the Commission unless the developer agrees to an extension of time.

- e. The Commission may, in its discretion, hold a public hearing on the site plan of the proposed development and prescribe the notice thereof and to whom such notice shall be given.
- f. The City Council shall, upon receipt of the recommendation of the Planning and Zoning Commission, either approve or disapprove the site plan of the proposed development.
- g. No building permit or certificate of occupancy for any structure within any district within which a site plan is required shall be issued until the site plan has been approved as provided herein.
- h. Upon final action by the Planning & Zoning Commission on any site plan, a copy of said site plan with the action of the Planning & Zoning Commission noted thereon and signed by the chairperson of the commission shall be filed with the City Clerk.
- i. If the Zoning Administrator finds that any construction or proposed construction or occupancy of a development on a tract of land for which a site plan has been approved will not substantially comply with the site plan as approved or if he finds that the construction and development of the tract is not being carried out in accordance with the development schedule filed with the site plan, he shall suspend all building permits for the development and order all construction stopped until such time as the owner of the project, or his successors in interest, shall have provided him with proof satisfactory to him that the site plan will be complied with. The zoning administrator shall not issue a certificate of occupancy for any structure within the development while the building permit for the development has been suspended pursuant to this paragraph. Any person aggrieved by any decision or action of the Zoning Administrator under this paragraph may appeal such action or decision to the Board of Adjustment.
- j. If the owner or developer of a tract of land for which a site plan has been approved determines that an extension of time is necessary or that a modification of the site plan would provide for a more appropriate or more practicable development of the site, he may apply for an amendment of the site plan. The Planning and Zoning Commission may grant an extension of time or a modification of a previously approved site plan if it determines that such modification of the site plan would provide for a more appropriate development of the site.

SECTION 701. SITE PLAN REVIEW. In reviewing a proposed site plan, the City Council and the Planning and Zoning Commission shall consider the location of the buildings on the site with respect to vehicular and pedestrian traffic to and from the buildings, traffic between the site and abutting streets, suitable layout and adequate provisions for off-street parking and loading, with due consideration given to the provision of traffic islands, pedestrian ways and landscaping within the parking area, provision for necessary screening between adjacent properties and the site, location and display of traffic signs to promote traffic patterns, location and display of business signs so as not to distract or confuse motorists and location and display of outdoor advertising so as to provide adequate visibility within the site during hours of night operation but not to have adverse effects on surrounding properties.

SECTION 702. SITE PLAN REQUIREMENTS. All site plans shall be drawn at a scale not less

than 1"=50'. Ten (10) copies of the site plan shall be submitted to the City Clerk. The purpose of the site plan is to show all information needed to enable the engineer, Planning and Zoning Commission and the City Council to determine if the proposed development meets the requirements of this ordinance.

SECTION 703. INFORMATION REQUIRED. The site plan required shall include the following information concerning the proposed development.

- a. Names of all persons having an interest in the property, legal description of property, point of compass, scale and date.
- b. Applicant's name, planned land use and present zoning.
- c. If the applicant is other than the legal owner, the applicant's interest shall be stated.
- d. Name and address of person who prepared the site plan.

SECTION 704. REQUIRED ILLUSTRATIONS. The site plan shall clearly set forth the following information concerning the proposed development:

- a. Property boundary lines, dimensions and total area of the proposed development.
- b. Contour lines of the proposed development at intervals of not more than five (5) feet. If substantial topographic change is proposed, the existing topography of the development and of the surrounding area shall be illustrated on a separate map, and the proposed finished topography shown on the site plan.
- c. The availability, location, size and capacity of existing utilities, and of proposed utilities.
- d. The proposed location, size, height, shape, use and architectural theme of all buildings or structures in the proposed development.
- e. The total square footage of building floor area, both individually and collectively in the proposed development.
- f. Existing buildings, rights-of-way, street improvements, railroads, easements, drainage courses and streams.
- g. Location, number, dimensions and design of off-street parking in the proposed development, including:
  1. Driveways
  2. Striping and safety curbs,
  3. Loading facilities,
  4. Type and location of lighting, and
  5. Surface treatment.
- h. Open spaces, yards, recreational areas, walkways, driveways, outside lighting, walls, fences, monuments, statues, signs and other man-made features to be used in the landscape of the proposed development.
- i. Facilities for the collection and disposal of garbage and trash.
- j. Location and type of all plants, grass and trees to be used in the landscape of the proposed development. Landscaping to be used for screening purposes shall be illustrated in elevation as well as plan, with the approximate size and name of plants, shrubs or trees to be planted clearly indicated.

- k. Location of entrances and exits from the proposed development onto public streets, and interior drives and proposed sidewalks in the development.
- l. Proposed drainage facilities and provisions for flood control, if applicable.
- m. The location, height and area of all signs (directional signs, identification signs, or temporary signs) in the proposed development.

SECTION 705. EXPIRATION OF APPROVAL. All site plan approvals shall expire and terminate one hundred eighty (180) days after the date of Council approval unless a building permit has been issued for the construction provided for in the site plan. The City Council may, upon written request by the developer, extend the time for the issuance of a building permit for sixty (60) days. In the event the building permit for the construction provided for in a site plan expires or is cancelled, then such site plan approval shall thereupon terminate

## ARTICLE VIII

### LANDSCAPING REQUIREMENTS

**60-37 LANDSCAPING REQUIREMENTS FOR ALL DISTRICTS.** It is the intent of the landscaping requirement to provide trees, shrubs, and other natural vegetation on newly developed and redeveloped properties within the City of Durant. Landscaping with natural vegetation has been shown to reduce storm water runoff and improve water quality, improve air quality, prevent soil erosion, and significantly enhance the visual or aesthetic appearance of a city. Well landscaped properties improve not only the subject property value but enhance the attractiveness of an area from a quality of life and economic development viewpoint.

In addition, the landscape requirements of the zoning ordinance are utilized to effectively screen and buffer uses of different intensities to minimize one impact on another and improve the overall compatibility between uses. For example, a commercial car wash located adjacent to a professional office or residential use can incorporate any combination of fencing, screen wall, berm, and landscaping within a (10) ten foot buffer area to effectively mitigate the negative or disruptive characteristics commonly associated with such use. A row of six-foot-tall evergreens planted within a (10) ten foot wide buffer spaced at no more than (6) six feet on center can be used to effectively buffer and screen adjacent uses as well. Natural materials such as bark mulch and woodchips within buffer areas are recommended versus impervious materials such as rock and stone.

Existing trees and vegetation may be used where possible to meet the landscaping requirements of this ordinance. Maintaining site landscaping and the replacement of dead or dying vegetation is required by the property owner as the intent of this ordinance is to provide effective landscaping on an ongoing basis.

**SECTION 800. LANDSCAPE PLAN OR SKETCH PLAN REQUIRED.** A landscape plan is required for city review and approval prior to the issuance of a building permit for the development of new properties or the redevelopment of existing properties as required herein. The landscape plan shall clearly illustrate compliance with the requirements as stated and include the size, type, height, and location of all vegetative materials proposed including ground cover material.

**SECTION 801. LANDSCAPE SCREENING AND BUFFERING BETWEEN USES.** The following screening and buffering methods shall be used to mitigate the potential negative characteristics of more intensive uses on less intensive uses. During site plan review, the developer and/or property owner will work with staff to determine the appropriate and effective screening and buffering method most suited for the specific characteristics of the development or redevelopment. A new residential subdivision adjoining a higher intensive zoning district or use, shall provide a screen or buffer and illustrate such screening and buffering on the preliminary plat. All developments other than one & two family residential shall provide a landscape plan as part of the site plan review process illustrating general buffering and screening to meet the intent of

this ordinance. The following options shall be considered sufficient to meet the intent of this ordinance.

- a. Option 1. A landscape screening area having a minimum width of 10 feet shall be provided by the multi-family residential, commercial, industrial, public, or civic project on the shared border. The buffer area shall consist of a row of six-foot-tall evergreen trees planted parallel to the property line and spaced at no more than six feet on center. Impervious materials are not permitted in the landscape screening area.
- b. Option 2. An opaque wall, berm, or fence shall be provided on the shared border with a minimum height of six feet.
- c. Option 3. A project shall retain an existing landscape screening area along the shared border having a minimum width of 10 feet. At a minimum, the landscape screening area shall consist of a row of six-foot-tall evergreen trees located parallel to the property line and spaced a no more than six feet on center. If the existing trees are spaced further apart than six feet on center, then additional six-foot-tall evergreen trees shall be planted within the landscape screening area to achieve the required spacing. Impervious materials at ground level are not permitted in the landscape screening areas.

## ARTICLE IX

### SUPPLEMENTAL REGULATIONS

**60-38 CELLPHONE TOWERS** The purpose of this ordinance is to allow and regulate the installation of communication transmission facilities within the city limits of the City. In general, said communication transmission facilities shall include cell telephone towers and similar installations. Prior to taking final action on this Ordinance the City County has followed the procedure required in Article XXII of the Durant Zoning Ordinance and the requirements of Section 414.4 of the Code of Iowa. Following all said consideration, it is the finding of the City Council that this Ordinance is in the best interest of the City and should be enacted.

#### SECTION 900. Communication Transmission Facilities Location:

a. Communications Transmission Facilities (CTFs) are permitted in any area of the City, but only upon approval by the City Council. Preference for locating CTFs shall be in open areas located in industrial or commercial areas or in City owned parks and open areas, provided the following conditions are met:

1. The antenna is mounted on an existing communications tower, on the roof of a principal building that contains a nonresidential use or on the roof of a building that is accessory to a nonresidential use, or on another tall structure that is permitted in the district. Examples include church and school buildings, water towers and clock towers. A maximum of two (2) antennas is permitted per building or structure.

2. The height of the antenna shall not exceed the height of the existing structure or building to which it is attached by more than twenty feet (20'). If it exceeds this limit, a special exception is required to ensure that the antenna and any associated structure is designed to blend into its surroundings, or be camouflaged so as not to be obtrusive or detract from neighboring properties. No CTF shall be constructed over 200 feet in height.

3. No CTF shall be placed in any residential district except with City Council approval following Notice and public hearing. See subsection (b) below. Strobe lighting is prohibited in all districts. Therefore, any antenna that requires such illumination is prohibited.

4. Any equipment associated with an antenna must be located within the exterior walls of the building to which the antenna is attached. No separate equipment shed is permitted, except if the antenna is attached to a tall structure that is not a building. In such a case, a separate equipment shed is only allowed by special exception if it can be demonstrated that the shed can be adequately screened or designed in a manner that blends in with the residential character or future residential character of the surrounding area.

b. Communications towers area allowed by special exception in residential districts and must comply with the following approval criteria:

1. The proposed tower serves an area that cannot be served by an existing tower or industrial property or by locating antennas on existing structures in the area. The applicant must document attempts to utilize existing structures, towers, and commercial and industrial properties within one-half (1/2) mile of the proposed tower. Such documentation must include maps illustrating the location of existing towers and potential alternative sites for antenna and towers that have been explored by applicant and the applicant must state the reasons that these locations were not feasible.

2. The proposed tower will be designed and constructed in a manner that will camouflage the structure and reduce its visual impact on the surrounding area. Examples of camouflage design include monopoles, which do not have guy wires or support trusses and that are painted to blend in with the sky or surroundings, towers camouflaged as flagpoles, monuments, steeples, or the integration of roof top towers onto existing buildings, water towers, etc. Rooftop towers must use materials similar to or that blend in with the structure to which it is attached. Other camouflaged tower structures must be of similar height and appearance as other similar structures allowed in the district, e.g., towers camouflaged as light poles or utility poles must be of similar height and appearance as other such poles. The applicant must include an illustration of how the tower would appear in the proposed location.

3. The proposed tower will be not taller than is necessary to provide the service intended. Evidence presented should include coverage maps illustrating current gaps in coverage and changes to coverage with the proposed tower. Communications towers are exempt from the maximum height standards of the Durant Zoning Ordinance (this ordinance), but under no circumstance may the tower be taller than two hundred feet (200') from grade. If a communications tower is camouflaged to appear similar to another common structure allowed in the District, it must comply with the same height standards that would apply to the type of structure that it emulates. For example, if the tower is camouflaged as a light pole, flagpole, or utility pole it must not exceed the height limitation for such structures as specified in the District. If no height standard exists in the code for such a structure, it must be designed to be of similar height and appearance to other similar or typical structures. If the tower is camouflaged as a chimney, steeple, or other similar rooftop structure, the board may exempt it from the District height standards if it is designed as if it were an integral part of the building and is not out of scale or proportion to other similar rooftop structures.

4. The proposed tower will be set back from the property line at least 80 feet in distance, but such set back may be increased by the City Council.

5. Any equipment associated with the tower facility will be enclosed in an



equipment shed, cabinet, or building, which must be adequately screened from view of the public right of way and adjacent properties and designed in a manner that will be compatible and blend in with the future residential development.

6. The proposed tower will not utilize a backup generator as a principal power source. Backup generators may only be used in the event of a power outage. The City Council or the Board of Adjustment may require that the electric distribution line necessary to furnish electric service to the tower be made underground from existing systems, however, this requirement would not apply to electrical transformers, meter pedestals, switchgear and other appurtenances impractical to bury.

7. The proposed tower must be designed and constructed to accommodate at least one additional user, unless in doing so the tower will exceed the two hundred foot (200') height limitation or if the City Council or Board of Adjustment determines that allowing the additional height needed to accommodate another user will detract from the area to the extent that it will prevent future developments envisioned in the comprehensive plan. The applicant shall provide a certification by a professional engineer licensed in this state that the proposed tower will be designed to permit a second antenna system of comparable size to be added to the tower above or immediately below the original antenna system.

9. If use of the tower is discontinued, the tower and any associated equipment must be removed by the owner of the tower, the operator, or the owner of the property within one year of discontinuance of use and the land graded and replanted to prevent erosion. The applicant shall present a signed lease agreement, a recorded declaration of covenants, or other satisfactory evidence acknowledging this obligation.

**SECTION 901. WATER AND SEWERAGE REQUIREMENTS.** In any district in which residences are permitted and where neither public water supply nor public sanitary sewer is available, the lot area and frontage requirements shall be as follows:

- a. Lot area-twenty thousand (20,000) square feet: lot width at building line-one hundred (100) feet; provided, however, that where a public water supply system is available these requirements shall be fifteen thousand (15,000) square feet, and one hundred (100) feet respectively.
- b. The above requirements shall not apply in subdivision developments, providing private water supply and sewage collection and disposal systems, which have been approved by the Iowa Department of Water, Air and Waste Management.
- c. In all districts where a proposed building, structure or use will involve the use of sewage facilities, and public sewer and /or water is not available, the sewage disposal system and domestic water supply shall comply with all of the requirements and standards of the County Board of Health.

## ARTICLE X

### ADMINISTRATION AND ENFORCEMENT

#### 60-39 ADMINISTRATION AND ENFORCEMENT.

SECTION 1000. ZONING ADMINISTRATOR. There is hereby created the position of Zoning Administrator who shall be appointed by the City Council. The Zoning Administrator shall administer and enforce the provisions of this ordinance and shall have the following powers and duties, in connection therewith.

- a. He shall issue all permits and certificates required by this ordinance.
- b. If he shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The Council, may, by resolution, passed by a majority vote of the entire Council, delegate the powers and duties of the office of Zoning Administrator to any other officer or employee of the City of may combine the powers and duties of this office with any other office or position.

SECTION 1001. CERTIFICATE OF OCCUPANCY. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this ordinance.

No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefore by the Zoning Administrator. No permit shall be issued to make a change unless the changes are in conformity with provisions of this ordinance.

Nothing in this part shall prevent the continuance of a non-conforming use as hereinbefore authorized, unless discontinuance is necessary for the safety of life or property.

Applications for Certificates of Occupancy shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed. A record of all certificated shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

No permit for excavation for, or the erection or alteration of any building shall be issued before the application has been made for a Certificate of Occupancy, and no building or premises shall be occupied until that certificate is issued. A temporary Certificate of Occupancy may be issued by the Zoning Administrator for a period not exceeding six months during alterations for partial occupancy of a building pending its completion, provided that such temporary certificate may

include such conditions and safeguards as will protect the safety of the occupants and the public. A Certificate of Occupancy shall be required of all non-conforming uses. Application for a certificate for non-conforming uses shall be filed with the Zoning Administrator within twelve (12) months from the effective date of this ordinance, accompanied by affidavits of proof that such non-conforming use was not established in violation of previous ordinances.

SECTION 1002. PLATS. Each application for a Certificate of Occupancy shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this ordinance. A record of applications and plats shall be kept in the office of the Zoning Administrator. A copy in duplicate of the approved site plan shall be submitted in all cases requiring site plan approval.

**60-40 BOARD OF ADJUSTMENT.** A Board of Adjustment is hereby established, which shall consist of five members appointed by the City Council, each for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable for cause by the City Council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

SECTION 1003. PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meeting shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment 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 a public record and be immediately filed in the office of the board. The presence of three (3) members shall be necessary to constitute a quorum.

SECTION 1004. HEARINGS: APPEALS: NOTICE. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Durant affected by any decision of the Zoning Administrator. Such appeals shall be taken within fifteen (15) days 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 papers constituting the record upon which the action appealed from was taken. The board of adjustment shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person, or by agent or attorney. Before an appeal is filed with the board, the appellant shall pay a fee of fifty dollars (\$50) to the City Clerk to be credited to the general fund of the City of Durant.

SECTION 1005. STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of

the action appealed from , unless the Zoning Administrator certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court record on application, on notice to the Zoning Administrator and on due cause shown.

SECTION 1006. BOARD OF ADJUSTMENT: POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

SECTION 1007. ADMINISTRATIVE REVIEW. 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 this ordinance.

SECTION 1008. SPECIAL EXCEPTIONS. To permit the following exceptions to the district regulations set forth in this ordinance, provided all exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety, and shall not diminish or impair established property values in surrounding areas.

- a. To permit erection and use of a building or the use of the premises or vary the height, yard or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, which the board determines is reasonably necessary for the public convenience or welfare.
- b. To permit the use of property in residential districts for off-street parking purposes as accessory to permitted residential district uses where said parking lots do not immediately adjoin the permitted residential district use.
- c. To permit the extension of a zoning district where the boundary line or a district divides a lot in single ownership as shown of record or by existing contract or purchase at the time of the passage of this ordinance, but in no case shall such extension of the district boundary line exceed thirty (30) feet in any direction.
- d. To issue permits and decide and such matters as may be required by other sections of this ordinance.

SECTION 1009. VARIANCES: CONDITIONS APPLICATIONS: PROCEDURES.

To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

- a) A written application for a variance is submitted demonstrating:
  1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

2. That literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

Non-conforming use of neighboring lands, structures, or buildings in the same district, and permitted or non-conforming use of lands, structures, or buildings in other districts shall not be considered grounds for the issuance of a variance.

- a) The Board of Adjustment shall make findings that the requirements of SECTION 1009 have been met by the applicant for a variance;
- b) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- c) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article X, 60-43, of this ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

SECTION 1010. DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above mentioned powers, the board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as it believes proper, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three (3) of the 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 matter upon which it is required to pass under this ordinance; provided, however, that the action of the board shall not become effective until after the resolution of the board, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution, immediately following the Board's final decision, shall be filed in the office of the Board, and shall be open to public inspection.

Every variation and exception granted or denied by the board shall be supported by a written testimony or evidence submitted in connection therewith.

Any taxpayer, or any officer, department, board or bureau of the City of Durant, or any person or persons jointly or severely aggrieved by any decision of the board may present to a court of record a petition, duly verified, setting for the that such decision is illegal, in whole or in part specifying the grounds of illegality . Such petition shall be presented to the court within thirty (30) days after the final of the decision in the office of the board.

**60-41 AMENDMENTS.** The City Council may, from time to time, on its own action or on petition, after public notice and hearings as provided by law, and after report by the Planning and Zoning Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established, and such amendment shall not become effective except the favorable vote of a majority of all the members of the City Council.

**SECTION 1011. PROCEDURES.** Whenever any person, firm or corporation desires that any amendment, or change be made in this ordinance, including the text and/ or map, as to any property covered by this ordinance, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of fifty (50) percent of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of fifty (50) percent of the area of all real estate lying outside of said tract but within two hundred fifty (250) feet of the boundaries thereof, and intervening streets and alleys not to be included in computing such two hundred fifty (250) feet, it shall be the duty of the Council to vote upon such petition within a reasonable time after filing of such petition with the City Clerk.

Prior to voting or holding a public hearing upon the petition as submitted, the City Council shall refer the petition to the Planning and Zoning Commission requesting its comments and recommendations. The Commission, after public hearing, shall advise the City Council of its recommendations and the vote thereon.

In case the proposed amendment, supplement or change be disapproved by the Planning and Zoning Commission, or a protest be presented duly signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the Council. Whenever any petition for amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have been denied by the City Council, then no new petition covering the same property or the same property and additional property shall be filled with or considered by the City Council until one (1) year shall have elapsed from the date of filing of the first petition.

**SECTION 1012. APPLICATION AND FILING FEES.** Before any action shall be taken as provided in this article, the owner or owners of the property shall complete an application clearly

explaining their request. Said application(s) will be available at City hall and after completion, submitted with the appropriate fee to the City Clerk to initiate proceedings. The following fees are established to cover the City's cost in administrating the respective proceedings:

Rezoning Fee: \$200.00  
Site Plan Review: \$150.00  
Variance: \$150.00  
Special Use Permit: \$150  
Appeal: \$50.00

**60-42 COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

**60-43 PENALTIES FOR VIOLATION.** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**60-44 SEPARABILITY CLAUSE.** Should any sector or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**60-45 REPEAL OF CONFLICTING ORDINANCES / EFFECTIVE DATE.** All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective after its final passage, approval and publication as provided by law.

**60-46 EFFECTIVE DATE OF ORDINANCE ADOPTION.**  
Passed and approved by the City Council this 7 day of November , 2013.

# ZONING AND SUBDIVISION

## CHAPTER 61

### SUBDIVISION REGULATIONS

<b>61-01 Title</b>	<b>61-07 Preliminary Plat Requirements</b>
<b>61-02 Purpose</b>	<b>61-08 Final Plat Procedure</b>
<b>61-03 Definitions</b>	<b>61-09 Final Plat Requirements</b>
<b>61-04 Plats in Unincorporated Areas</b>	<b>61-10 Subdivision Design Standards</b>
<b>61-05 Procedure for Plat Approval</b>	<b>61-11 Required Improvements</b>
<b>61-06 Preliminary Plat Procedure</b>	<b>61-12 Variances and Administration</b>

**61-01 TITLE.** This ordinance may be known and cited as the Durant Subdivision Ordinance, and shall be referred to herein as “this ordinance.”

**61-02 PURPOSE.** This Subdivision Ordinance regulates the conversion of vacant land or larger undeveloped parcels into specific legal lots of record for residential, commercial and industrial use. Public services, including but not limited to, streets, water, sewer, garbage pick-up, and emergency response, are each impacted by the location and design of new subdivisions. These regulations establish minimum standards to ensure that as new development takes place careful consideration is given to existing development including the long term impact the subdivision will have on the provision of public services. Furthermore, the City’s Comprehensive Land Use Plan and the City’s Zoning Ordinance each establish guidelines and provide direction to assist in the subdivision process to ensure that new developments promote the health, safety, and general welfare of citizens of Durant Iowa.

**61-03 DEFINITIONS.** For the purpose of this ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural number includes the singular; the word “shall” is mandatory, and word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied.



ADMINISTRATIVE OFFICER: The City Official appointed by the City Council to assist with the administration of this ordinance.

ALLEY: A public right-of-way, other than a street, twenty (20) feet or less in width, providing a secondary means of access to abutting property.

ARTERIAL STREET: A public right-of-way with a high degree of continuity which serves the movement of large volumes of traffic between various districts or areas of a city.

AUDITOR'S PLAT: A plat prepared at the request of the County Auditor to clarify property descriptions for the purposes of assessment and taxation.

BLOCK: An area of land bounded by streets or public land within a subdivision that is geographically located within a defined area or subdivision.

BUILDING LINE: A line designating the allowable proximity of a building to an adjacent street, alley, or property line.

COLLECTOR STREET: A street which carries traffic from minor streets to an arterial, including the principal entrance streets of a residential development and streets for basic circulation within such a development.

COMMISSION: The Planning and Zoning Commission of Durant, Iowa.

COMPREHENSIVE PLAN: The composite of the functional and geographic elements of the determined goals and objectives of the City for the harmonious future development thereof; in the form of plans, maps, charts, and text material as adopted by the City.

CUL-DE-SAC: A minor street having one open end and being permanently terminated at the other end by a vehicular turn-around.

EASEMENT: A grant by a property owner of the specific use of land to the public generally, or to a person or persons. The easement should specify the purpose and use including what can or cannot be done within the easement area.

ENGINEER: The City's Registered Professional Engineer, whether a City employee or retained by the City for the necessary functions herein defined.

FINAL PLAT: A map or plan of a subdivision, and any accompanying material. The legally recorded plat of record establishing legal lots for sale.

HALF STREET: A street bordering one or more property lines of a tract of land in which the developer has allocated only part of the ultimate right-of-way width.

LOT: A portion of a subdivision or other parcel of land intended as a unit for the purpose of transfer of ownership or for building development.

MINOR STREET: A street of limited continuity used primarily for access to abutting properties and the local needs of a neighborhood. Often referred to as a local street.

PEDESTRIAN WAY: A right-of-way across or within a block for use by pedestrian traffic, whether designated as a pedestrian way or a crosswalk or other.

PERSON: Any individual, firm, association, partnership, corporation, trust, or other legal entity.

PLANNING ADMINISTRATOR: The City Official appointed by the City Council to assist in the administration and review of a proposed development to ensure compliance and consistency with the City's Comprehensive Plan as well as other planning, zoning, and subdivision standards and regulations.

PLAT: A map, drawing, plan, or chart of a subdivision.

PRELIMINARY PLAT: A tentative map or plan of a proposed subdivision. This plat should include the broader or larger area for development purposes and address the various issues or

factors affecting development such as street locations, drainage, utilities, etc.

PROPRIETOR'S PLAT: A plat as defined herein submitted by the owner of the land being platted, or his agent, or other private entity, acting with the consent of the owner.

PROTECTIVE COVENANTS: Contracts entered into between private parties which constitute a restriction on the use of all private property within a subdivision for the benefit of property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

STATEWIDE URBAN DESIGN AND SPECIFICATION (SUDAS): SUDAS is short for Statewide Urban Design and Specifications. The Institute for Transportation at Iowa State University maintains Iowa's SUDAS manuals for public improvements. Such improvements include sanitary sewers and water mains, streets and sidewalks, utility locations, signalization, drainage and erosion control, etc.

STREET: A public right-of-way which affords primary means of access by pedestrians and vehicles to abutting properties.

SUBDIVIDER: Any person commencing proceedings under this ordinance for himself or for another.

SUBDIVISION: The division of a parcel of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development; or, if a new street is involved, any division of a parcel of land; provided that the division of land for agricultural purposes into lots or parcels of forty (40) acres or more and not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SUBDIVISION DESIGN STANDARDS: The guides, principles, and specifications for the preparation of subdivision plans.

**61-04 PLATS IN UNINCORPORATED AREAS.** With regard to subdivisions located in the unincorporated areas of Cedar, Scott, and Muscatine counties within two (2) miles of the Durant corporate limits, the provisions of this ordinance shall apply. The Commission and Council shall have the right to waive such requirements as are contained in this ordinance to the end that the Commission and Council are satisfied that equally suitable regulations have been placed on these subdivisions by the Board of Supervisors of the appropriate County: provided, however, that the County Board of Supervisors furnish the Commission with a copy of said subdivision certifying that all requirements of the appropriate county ordinances have been met. The Commission shall study such plat to determine that no conflict exists with the extension of existing streets and rights-of-way within the City into the unincorporated area and to determine if the plat would otherwise interfere in any way with the carrying out of the Comprehensive Plan for the City of Durant. If the Commission is satisfied by their studies that these conditions are provided for they shall endorse their approval upon said plat and submit it to the City Council. Upon approval by the City Council, the City Clerk shall notify the County Auditor and Recorder of the appropriate county in accordance with the provisions of existing statutes.

The purpose of this section is to facilitate the orderly processing of subdivisions in unincorporated areas within two (2) miles of the City of Durant and to avoid conflicting regulations while at the same time assuring that provisions are made for proper and orderly

future growth of the City of Durant.

**61-05 PROCEDURE FOR PLAT APPROVAL.** The subdivision review process is comprised of a three (3) step process. Step 1 involves an initial meeting with the landowner or developer to discuss with city staff and/or appointed review persons such as the appointed zoning administrator, public works director, and city engineer the overall project concept. This meeting should clarify the City's expectations with regard to filing requirements, ordinance requirements, service availability and other matters such as consistency with the City's Comprehensive Plan and the City's ability to assist and/ or extend City services to a particular area.

Step 2 involves the submittal of the preliminary plat for review and approval. The preliminary plat will show in considerable detail the planning and layout of the proposed project. As stated in Section 57-07, the plat will show contour lines, site features such as waterways, flood hazard areas, large trees, and existing buildings. The contour lines will assist in the review to determine appropriate grades to ensure lots will be well-drained and buildable. In addition, contour lines will help to determine whether or not the streets are laid out to blend with the sites slope and amenities, and whether utilities, such as sanitary sewers, are designed to utilize gravity flow versus the need for forced mains and lift stations. Typically, the preliminary plat should show the larger or build out scenario for an area with the final plat representing a particular phase of the development.

Step 3 of the process represents final plat review and approval. The final plat is a final and accurate version of the approved preliminary plat and reflects changes and conditions made during the review process. This is the formal legal document that is then recorded and allows the subsequent sale of lots for development. Section 57-08 outlines the requirements for final plat review and approval.

Before a final plat is released by the City for recording, assurance needs to be made that public improvements, such as streets and sewers, have been constructed and accepted by the City Engineer or that an appropriate financial guarantee such as a performance bond, letter of credit, or escrow is in place. If the landowner or developer completes the improvements per the approved plans and per the adopted design and construction standards or posts an appropriate financial guarantee that said work will be completed, the plat may then be recorded and lots are ready to be sold. When improvements are accepted by the City, the City may then releases the financial guarantee and therefor accepts responsibility for the improvements from that point forward.

**61-06 PRELIMINARY PLAT PROCEDURE.** Whenever the owner, or owners, of any tract or parcel of land within the corporate limits of the City of Durant, or within two (2) miles thereof, wishes to make a subdivision of the same, he shall cause to be prepared a preliminary plat of said subdivision and shall submit said preliminary plat and such other information as is hereinafter required to the City of Durant for preliminary study and approval.

At least twelve (12) copies of the preliminary plat together with completed application forms for preliminary approval shall be submitted to the administrative officer at least two weeks prior to

the Commission meeting at which consideration is desired. The administrative officer shall refer seven (7) copies of said plat to the Secretary of the Commission and one (1) copy to the city engineer upon receipt of a preliminary plat.

No land shall be approved for subdivision which is subject to periodic flooding or which contains extremely poor drainage facilities. However, if the sub-divider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for occupancy and provide adequate drainage, the preliminary plan may be approved.

The Commission shall notify the owner or sub-divider as to the time and place of the meeting at which his plat and plan will be studied. The Commission requests that the owner or sub-divider attend the meeting with his/her representatives to address any questions raised at said meeting. The Commission shall study and act on the preliminary plat and the City Engineer shall study said plat and plans in regard all public improvements including street layout and the provision of water and sewerage systems while the Planning Administrator shall review the plat in regards to overall compliance and consistency with adopted City Plans and applicable ordinances. Both the City Engineer and Planning Administrator shall make recommendations on these aspects to the Commission; all to be accomplished within forty-five (45) days after submission to the administrative officer. If the Commission disapproves a plat, the reasons for disapproval shall be remedied prior to further consideration. The preliminary plat shall not be approved until the plans and specifications for necessary improvements are acceptable to the engineer.

If the Commission acts favorably on a preliminary plat, a notation to that effect shall be made on the plat above the signature of the chairman and secretary, and it shall be referred to the City Council for action. The City Council shall act within twenty (20) days. Its action shall be noted on the plat, signed by the Mayor, attested to by the City Clerk, and shall be returned to the sub-divider for compliance with final plat requirements. Approval of the preliminary plat shall confer upon the applicant the following rights for a period of one (1) year from the date of approval:

- A. That the general terms and conditions under which the preliminary approval was granted will not be changed.
- B. That the applicant may submit on or before the expiration date the whole or part parts of said plat for final approval.

**61-07 PRELIMINARY PLAT REQUIREMENTS.** As stated in Section 57-05, each sub-divider of land should confer and meet with City representatives prior to preparing and submittal of a preliminary plat. The pre-application meeting should include a representative of the Commission in order to become thoroughly familiar with the Comprehensive Plan and with other municipal regulations affecting the area in which the proposed subdivision lies. After such meeting, the owner shall then submit twelve (12) copies of a preliminary plat to the Commission which shall be drawn to a scale of not less than one (1) inch to one hundred (100) feet by a registered engineer and licensed land surveyor and shall show the following:

- A. Date, scale and north arrow.
- B. Location of the plat by quarter section, section, township and range and any other necessary legal description to describe the boundary line of the proposed subdivision.

- C. Approximate total area of proposed subdivision.
- D. Names and addresses of owner or sub-divider of land and the engineer and land surveyor preparing the plat and associated information, including phone numbers for easy contact.
- E. Topographic map of the area showing contours as follows: two (2) foot intervals where slope is seven (7) percent or less; five (5) foot intervals where slope is from seven (7) to fifteen (15) percent; ten (10) or twenty (20) foot intervals where slope is greater than fifteen (15) percent. All areas of the subdivision to be platted with a slope of greater than twenty (20) percent shall be clearly indicated.
- F. Water elevations of adjoining lakes, rivers and streams at date of survey and their approximate high and low water elevations. All elevations shall, when possible, refer to established United States Coast and Geodetic Survey and /or United States Geological Survey Datum. FEMA flood plain maps should be utilized regarding flood hazard areas.
- G. Location and names of adjacent subdivisions and the owners of adjoining parcels of un-subdivided land.
- H. Present zoning district classification of land to be subdivided and all adjacent lands; and the proposed zoning district classification for the land to be subdivided if a change is intended.
- I. Location, widths and names of all existing, platted, or dedicated streets, easements, railroad and utility rights-of-way, parks, water courses, drainage ditches, permanent buildings and structures, section and township lines and such other data as may be required by the commission within the area being subdivided and within three hundred (300) feet of the exterior boundaries thereof.
- J. Location, size and flow elevations of existing and proposed sanitary and storm sewers, location and size of water mains, culverts and other underground facilities within the area being subdivided and within three hundred (300) feet of the exterior boundaries thereof. Also, the location of gas lines, fire hydrants, electric and telephone lines or poles and street lights.
- K. Lengths and bearings of the exterior boundaries of the land being subdivided.
- L. The location, width and name of all proposed streets, rights-of-way and easements, whether public or private, for public and private utilities. Street names shall be identical to existing street names if the proposed street is an extension of the existing street. Public streets shall be required in all subdivisions.
- M. Approximate dimensions of all lots including lot size in acres or portion thereof.
- N. Approximate radii of all curves and lengths of all tangents.
- O. Approximate finish grades of all streets and surface drainage facilities with spot elevations given in critical areas, at every proposed street intersection and where severe cuts or fills are proposed.
- P. Approximate location and area of all property to be dedicated for public use or reserved by deed covenant for use by all property owners in the development, with a statement of the conditions of such dedication or reservation.
- Q. Approximate location of well and site and sanitary treatment facility site. If community water and/or sanitary treatment facilities are being proposed, the source of domestic water supply and type of sewage disposal.
- R. A feasibility report regarding community water and sewerage facilities where such facilities are to be incorporated in the final plat.

- S. Percolation test results, minimum of one (1) per acre, together with soil borings, a minimum of one (1) for every acre to indicate depth to water table and rock formation, when requested by the City Engineer.
- T. A soil analysis obtainable from the United States Department of Agriculture, Soil Conservation Service, when requested by the City engineer.
- U. An attorney's opinion of the abstract covering the property to be included in the final plat shall be submitted in duplicate showing all taxes due shall have been previously paid and that there are no outstanding liens or encumbrances on the property. The names of all record title holders and any other information that might otherwise affect the title of lots in the proposed subdivision shall be shown. The opinion shall be written by an attorney admitted to the practice of law in the State of Iowa.

**61-08 FINAL PLAT PROCEDURE.** Before consideration of a final subdivision plat, the subdivider shall have installed the improvements required under Section 8-2-11 or the Commission shall require the posting of adequate performance guarantees with the administrative officer to assure the installation of the required improvements within one (1) year after final approval of the plat as provided in Section 57-11.

The final plat or, in the case of large subdivisions, a final plat of part of the area covered by the approved preliminary plat shall be submitted to the administrative officer for forwarding to the Commission for final approval within one (1) year from the date of preliminary approval. The administrative officer shall refer seven (7) copies of said plat to the Secretary of the Commission and one copy to the engineer upon receipt of a final plat. The commission shall be assisted by the engineer's recommendations and shall act upon the final plat within forty-five (45) days after the date of submission for final approval to the administrative officer.

Twelve (12) copies of the final plat along with the application form for final approval shall be submitted to the administrative officer at least fourteen (14) days prior to the date of a regular commission meeting at which action is sought. Unless the preliminary plat is approved without changes, the final plat shall have incorporated all changes or modifications required by the Commission and Council. The final plat shall be accompanied by a statement from the engineer that he has received a map showing all utilities in exact location and elevation; identifying those portions already installed, those to be installed; and the sub-divider has complied with the requirements of Section 57-11 regarding installation of improvements.

Failure of the commission to act within the allotted time or a mutually agreed upon extension shall be deemed to be a favorable recommendation, and the plat shall be forwarded to the City Council for action on the final plat. If approval is given, the Commission shall indicate such approval on the plat over the signature of both the chairman and secretary of the Commission; and the Commission shall then forward the plat to the City Council for final approval and acceptance of all streets, alleys, ways, easements, parks or areas preserved for or dedicated to the public.

If the Commission does not recommend approval of the final plat of a subdivision, the City Council may approve the plat and accept all streets, alleys, ways, easements, parks or areas preserved for or dedicated to the public only by a three-fourths (3/4) vote of the entire membership of the City Council.

Upon final approval, copies of the final plat shall be filed by the City Council with the following:

- A. Planning and Zoning Commission
- B. Administrative Officer.
- C. City Engineer

Approval of the final plat by the City Council shall be null and void if the plat is not recorded within thirty (30) days after date of approval, unless application for an extension of time is made in writing during said thirty (30) day period to the Council, and granted.

**61-09 FINAL PLAT REQUIREMENTS.** Following preliminary approval, twelve (12) copies of the final plat shall be submitted to the Commission for study and review. Ten (10) copies of the final plat as ultimately approved by the Commission shall be necessary for submission to the City Council for its approval. This plat shall be made from an accurate survey by a licensed land surveyor and engineer and drawn to a scale of one hundred (100) feet to the inch or larger. The final plat shall show the following:

- A. All information required and shown on the preliminary plat as required by Section 57-07.
- B. Accurate angular and linear dimensions for all lines, angles and curvatures used to describe boundaries.
- C. True angles and distances to the nearest street lines or official monuments.
- D. Lines of adjoining streets and alleys, with their widths and names.
- E. Township, county and section lines accurately tied to the lines of the subdivision by distances and angles.
- F. Radii, arcs and chords, points of tangency, central angles for all curvilinear streets and radii for all rounded corners.
- G. Exact dimensions of all lots including lot size in acres or portion thereof.
- H. An identification system for all lots and blocks, using consecutive numbers.
- I. Exact location and area of all land to be dedicated for public use or reserved by deed covenant for common use of all property owners with the purpose indicated thereon. All lands dedicated for public use, other than streets, shall be marked "Dedicated to Public." All protective or deed covenants or private restrictions shall be shown on the plat or correctly referenced.
- J. Building setback lines as established by the Zoning Ordinance or deed restrictions.
- K. Where community-type water and sewerage facilities are not available; a statement that any lot sold or transferred will have a minimum width and area equal to that shown on the plat.
- L. Proper acknowledgement of owners and mortgagees accepting said platting and restrictions.
- M. When a proposed entrance of the subdivision is onto a controlled access street or road, the approval of the city engineer regarding such entrance shall accompany the final plat. Where such control is exercised by the Iowa Department of Transportation, the approval of this body shall accompany the final plat.
- N. Certification by a licensed land surveyor that the plat represents a survey made by him and that monuments and markers shown thereon exist as shown.
- O. A certificate by the owner or owners dedicating to the public for full public use all street and street rights-of-way and other land designated as "Dedicated to Public," and the granting of utility easements as shown on the plat.

- P. A Certificate of Approval by the Planning and Zoning Commission and City Engineer.
- Q. A Resolution of Plat Approval with the Mayor and City Clerk's certification.
- R. Certificates. It shall be the responsibility of the owner to obtain and submit to the county recorder the following certificates, prior to or at the time that the final plat is submitted for record:
  1. Certificate from the County Treasurer that the subdivision land is free from taxes.
  2. Certificate from the Clerk of the district Court that the subdivision land is free from all judgments, attachments, mechanics, or liens of record in his office.
  3. Certificate from the County Recorder that the title in fee is in the owner and that it is free from encumbrances other than those secured by an encumbrance bond.
  4. Certificate by the owner and spouse, if any, that the subdivision is with the free consent and is in accordance with the desire of the owners. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgment of deeds.

**61-10 SUBDIVISION DESIGN STANDARDS.** The following standards shall be applied as minimum requirements for subdivisions within the City of Durant. The City has formally adopted and recognizes, by this ordinance, the Iowa Statewide Urban Design and Specifications (SUDAS). These design standards and specifications (SUDAS) should be referred to and may be applied and required as determined by the City Engineer when and where the following standards are viewed as incomplete or not adequate for a particular application.

## **I. STREETS**

The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in appropriate relation to the proposed uses of the land to be served by such streets.

- A. Where not shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall:
  1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  2. Conform to a plan for the neighborhood, approved or adopted by the commission, to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.
- B. Minor streets shall be laid out so that use by through traffic will be discouraged.
- C. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of the residential or other proposed properties and to afford separation of through and local traffic.
- D. Where a subdivision borders on or contains a railroad right-of-way, the Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, such as, park purposes in residential districts or commercial or industrial purposes in appropriate districts. Such distances shall also



be determined with due regard for the requirements of approach grades and future grade separations.

E. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the City under conditions approved by the Commission.

F. Street jogs with centerline offsets of less than one hundred and twenty-five (125) feet shall be avoided.

G. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

H. When connecting street lines deflect from each other at any point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a slight distance of not less than one hundred (100) feet for minor and collector streets, and of such greater radii as the commission shall determine for special cases.

I. Streets shall be laid out to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees. More than two (2) streets intersecting at the same location shall be prohibited.

J. When the commission finds it necessary for reasons of safety and the protection of property, property lines at the street intersections shall be rounded with a radius of fifteen (15) feet or it may permit comparable chords in lieu of the rounded corner.

K. Street right-of-way widths shall be as shown in the Comprehensive Plan and where not shown therein shall be not less than the following:

<u>Street Type</u>	<u>Right –Of-Way</u>	<u>Min Width of Street</u>
<u>Service</u>		
State Arterial	Requirements set by Iowa-DOT	
Community Arterial	80 ft	40 ft b.b.
Collector	60 ft	31 ft b.b.
Minor / Local	50 ft*	27 ft b.b.
Cul-de-sac	50 ft	45 foot minimum radius

\*With all utilities stubbed to the lot lines.

L. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

M. Dead-end streets, designed to be so permanently, shall not be longer than six hundred (600) feet except where the commission has approved a maximum length not to exceed one thousand (1000) feet due to property limitations. Such streets shall be provided at the closed end with a turn-around having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred twenty (120) feet. The commission may approve a “T” type turn-around in lieu of the circular turn-around.

N. Street names shall not be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the commission.

O. Street grades, wherever feasible, shall not exceed the following, with due allowance for

reasonable vertical curves:

<u>Street Type</u>	<u>Percent Grade</u>
Arterial	6%
Collector	8%
Minor / Local	10%
Cul-de-sac	10%

P. No street grade shall be less than 0.5 percent where drainage is carried within the traveled roadway.

## **II. ALLEYS**

Alleys may be provided in commercial and industrial districts as a provision for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed. In residential districts, alleys may be provided as part of a logical and unified design theme, such as that used in neotraditional residential design.

- A. The minimum width of an alley shall be twenty (20) feet.
- B. Alley intersections and sharp changes in alignment shall be avoided; but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
- C. Dead-end alleys shall be avoided where possible; but if unavoidable, shall be provided with adequate turn-around facilities as determined by the commission.

## **III. EASEMENTS**

- A. Easements across lots or centered on rear or side lot lines shall be provided for utilities and shall not be less than five (5) feet in width on each side of all rear lot lines and side lot lines where necessary for poles, wires, conduits, storm sewers and sanitary sewers, gas, water, and heat mains. Greater width easements may be required in some cases.
- B. Where a subdivision is traversed by a watercourse, drainage-way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith. If it is deemed advisable by the commission or the engineer, such watercourse or drainage-way may be reestablished to conform with the proposed street pattern, in which case suitable storm drainage facilities shall be installed as designed and established by a Registered Professional Engineer for the sub-divider.

## **IV. BLOCKS**

- A. The length, width and shape of blocks shall be determined with due regard to:
  - 1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - 2. Zoning requirements regarding lot sizes and dimensions.
  - 3. Needs for convenient access, circulation, control and safety of street traffic.
  - 4. Limitations and opportunities of topography and other natural features.
- B. Block length shall not exceed one thousand (1000) feet, or be less than five hundred (500) feet.

C. Pedestrian crosswalks, not less than (10) feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.

## **V. LOTS**

A. Lot dimensions shall conform to the requirements of the zoning ordinance; however, greater lot area and dimensions may be required where community water and sewerage facilities are not available, if necessary and as determined by the tests and analyses specified in Section 8-2-07 of this ordinance and required by the City Engineer.

B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. The subdividing of the land shall be such to provide, by means of a public street, each lot with satisfactory access to an existing public street.

D. Large lot subdivisions. Whenever the area is divided into lots containing one (1) or more acres and there are indications that such lots will eventually be subdivided into smaller building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical and functional arrangement of smaller lots.

E. Double frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten(10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

F. Side lot lines shall be substantially at right angles or radial to street lines. Side lines of lots formed by radial projections shall form a lot having not less than twenty (20) feet across the rear property line.

G. Corner lots for residential use shall have additional width to permit appropriate building setback from an orientation to both streets.

## **VI. PUBLIC SITES AND OPEN SPACES**

A. Where a proposed park, playground, school or other public use shown in the comprehensive plan is located in whole or in part in a subdivision, the commission may require that such area be reserved for acquisition by the City or school district at the fair market value prior to development, for a period of two (2) years, in those cases in which the commission deems such requirements to be reasonable.

B. Where deemed essential by the Commission, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale neighborhood development not anticipated in the Comprehensive Plan, the Commission may require land designated to meet the needs created by such development for schools, parks and other neighborhood purposes.

## **VII. UTILITIES**

The source of domestic water supply and type of sewage disposal shall accompany each plat for

the information of the commission, the engineer, and the City Council.

**61-11 REQUIRED IMPROVEMENTS.** Before the final plat of any area shall be approved by the City Council and recorded, the sub-divider shall make and install the improvements described in this section. In lieu of final completion of the minimum improvements before the plat is finally approved, the sub-divider shall post a bond, approved by the city attorney and city treasurer, with the City of Durant, which bond will insure to the City that the improvements will be completed by the sub-divider within one (1) year after final approval of the plat. The amount of the bond shall not be less than the estimate cost of the improvements and the amount of the estimate must be approved by the City Council. If the improvements are not completed within the specified time, the City may use the bond or any portion thereof to complete same. For plats located in unincorporated areas within two (2) miles of the Durant city limits, the requirements of this section shall apply. The Commission and Council may waive the requirements of this section provided they are satisfied that the regulations governing the unincorporated areas within which the subdivision is located are sufficient to insure adequate conformance with these regulations.

The minimum improvements installed or for which bond is posted, in any subdivision, before the plat can be finally approved shall be in accordance with the following sections:

#### **I. STREET CONSTRUCTION**

The sub-divider shall grade and improve all streets within the subdivision; such grading and improvement shall be provided to the full right-of-way width. The street shall be developed with portland cement concrete with integral curb or 24 inch portland cement concrete flat (drive over) curb and gutter, or 24-inch portland cement concrete (high back) curb and gutter sections with rolled stone base and asphaltic concrete surface. Pavement thickness and specification shall meet City specifications.

- A. The width of the street shall conform to the requirements of its functional classification as specified in Section 8-2-10 ( I.).
- B. Alleys shall be paved with either portland cement concrete or asphaltic concrete to the full width in accordance with City specifications.
- C. All streets shall be sod or seeded with grass in a manner which shall provide suitable protection from erosion over that area lying between the right-of-way lines and the back of street curbs. Erosion control matting and similar treatment may be required in areas of slope or areas subject to erosion as required by the City engineer.
- D. Adequate provisions for the collection and disposal of surface and storm water shall be provided within the street right-of-way. All storm sewer design and construction shall be in accordance with the City's standards and specifications.
- E. Street profiles and the necessary drainage plans to serve the area shall be determined and designed by a registered professional engineer for the sub-divider. All construction of such facilities shall be in accordance with such profiles and plans and shall be subject to the recommendations, supervision and approval of the city engineer and shall be in accordance with City specifications.

## **II. SIDEWALK CONSTRUCTION**

- A. The sub-divider shall install or cause to be installed sidewalks on each side of surfaced streets (for the full length of blocks). Sidewalks shall be a minimum of four (4) feet wide and located in the street right-of-way with the outer edge one (1) foot from the right-of-way line / property line.
- B. Sidewalk construction specifications shall be per the City Engineer with standard specifications available at City hall.

## **III. WATER FACILITIES**

- A. Where a public water main is accessible, the sub-divider shall install adequate water facilities (including fire hydrants) according to the City's specifications and as required by the municipal water department. Proposed locations of fire hydrants shall be approved by the city engineer and the municipal water department.
- B. If a public water system is not available, individual wells may be used, provided that construction is in accordance with Iowa State Department of Health Standards and that samples submitted to the Iowa Department of Health are approved for human consumption.
- C. In the future, however, if a public water service is accessible and a water main is placed in a street, alley or easement abutting upon property, the owner thereof shall be required to connect to said water main for the purpose of primary water service; and it shall be unlawful for any such owner or occupant to maintain upon such property an individual well system as its primary water source.

## **IV. SEWER FACILITIES**

- A. Where a public sanitary sewer is accessible, the sub-divider shall install adequate sanitary sewer facilities (including the installation of house service lines to the street right-of-way line) subject to City specifications.
- B. Where sewage pumping stations are required, the location will be determined by the City Engineer. The sub-divider will install the pumping station with all required appurtenances and force main. The sub-divider will be reimbursed in the proportion of which the area outside the subdivision, but served by the pumping station, bears to the total area to potentially served by the pumping station.  
If the sub-divider connects to a sewer leading to a sewage pumping station, he will be required to pay to the City of Durant his pro rata share of the cost of the pumping station and force main according to the ration of area his subdivision has to the total area to be potentially served by the sewage pumping station.
- C. Where a public sanitary sewer is not available, the minimum lot area shall conform to the requirements of Section 8-2-10 of this ordinance. The sub-divider shall make, or cause to be made, percolation tests of the soil as required by the City Engineer. These tests shall be the basis for design of individual sanitary facilities.
- D. In the future, however, if a public sanitary sewer is accessible and a sanitary sewer is placed in a street, alley or easement abutting upon property, the owner thereof shall be required to connect to said sewer for the purpose of disposing of waste; and it shall be unlawful for any such owner or occupant to maintain upon such property an individual sewage disposal system.

## **V. STORM WATER**

A. When a public storm sewer is accessible, the developer shall install storm sewer facilities. Where no outlets are available within a reasonable distance, adequate provision shall be made for disposal of storm water as approved by the City Engineer.

### **ORDINANCE AMENDMENT 2014-07**

*New developments shall be required to detain the difference in volume of the five year undeveloped storm and the one hundred year developed storm events for their development site. The allowable release rate for the detention calculations shall be the five year undeveloped storm. The method for the determination of this volume of water shall be proposed by the developer's engineer and approved by the City Engineer. Regional storm water management shall be preferred method of storm water detention versus numerous small individual detention facilities. The developer shall bear all construction and maintenance cost of the storm water detention management facilities unless they are officially dedicated and accepted by the City. Storm water management is required for all new subdivisions:*

*a.) Re subdivisions of larger than three acres for residential developments and two acres for commercial and industrial developments.*

Passed and approved this 22nd day of September, 2014.

B. All storm sewer design and construction shall be in accordance with city standards and specifications or per SUDAS as referred to in Section 8-2-10.

## **VI. MONUMENTS**

Permanent monuments shall be set at each corner of the perimeter of the subdivision and at the corner of each block within the subdivision and at the corner of each lot. All monuments shall be made of permanent material, sensitive to a dip needle and at least 30 inches long, and shall conform with standard specifications of the City of Durant. All monuments shall meet the requirements of Section 409.30, Code of Iowa.

## **VII. STREET TREES**

A. Street trees, street trees or other plantings within the street right-of-way is prohibited.

## **VIII. UTILITIES**

The Council and Commission may require that all utility lines except electric lines of nominal voltage in excess of 15,000 volts, be installed underground. The sub-divider shall be responsible for making the necessary arrangements with the utility companies for installation of such facilities. Said utility lines shall be installed in such a manner so as not to interfere with other underground utilities. Underground utility lines which cross underneath the right-of-way of any street, alley or way shall be installed prior to the improvement of any such street, alley or way in the subdivision. Incidental appurtenances, such as transformers and their enclosures, pedestal

mounted terminal boxes, meters and meter cabinets may be placed above ground but shall be located so as not to be unsightly or hazardous to the public.

Such incidental appurtenances shall be in accordance with the standards and specifications of the City of Durant. If overhead utility lines or wires are permitted, they shall be placed in the easements provided in the rear of the lots. In their determination on whether or not to require underground utilities, the council and commission may consider that soil, topographical, or other conditions make such installations within the subdivision unreasonable or impractical.

## **IX. CONSTRUCTION**

All plans, specifications, installation and construction required by this ordinance shall be subject to review, approval and inspection by the City Engineer or his authorized representative. All completed improvements must be formally approved and accepted by the City, as directed by the City Engineer, to ensure that said improvements were properly constructed and met the standards and specifications as outlined herein and /or referenced in the Iowa Statewide Urban Design and Specifications (SUDAS).

A. The City Council may require contracts for all public improvements to be executed on forms furnished and approved by the City Attorney and City Council.

B. The sub-divider shall furnish the City Engineer with a construction schedule prior to commencement of any and /or all construction, and shall notify the engineer not less than 48 hours in advance of readiness for required inspection. The sub-divider shall reimburse the City for the costs expended for all inspection services and tests furnished and conducted by or on behalf of the City.

C. The sub-divider shall be responsible for the installation and/or construction of all improvements required by this ordinance, and shall warrant the design, materials, and workmanship of such improvements, installation and construction for a period of two (2) years from and after completion. Such warranty shall be by bond or other acceptable collateral; and shall be subject to review by the City Attorney; shall assure the expedient repair or replacement or defective improvements under warranty; and shall indemnify the City from all costs or losses resulting from or contributed to such defective improvements.

D. The City Engineer and/or Public Works Director may require "As Built" drawings on a case by case basis, particularly in situations where deviations to the approved plans took place during construction and should be in writing or noted for future reference.

## **61-12 VARIANCES AND ADMINISTRATION**

### **I. HARDSHIP**

Where the City Council upon recommendation of the Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this Ordinance. Careful consideration must take place to ensure that reducing design and construction standards does not result in future public costs above and beyond that anticipated by conforming projects.

## **II. LARGE SCALE DEVELOPMENT**

The standards and requirements of these regulations may be modified by the Council upon recommendation of the Commission in the case of a plan and program for a self-contained, complete community or a neighborhood unit, which would in the judgment of the Council and Commission, provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which would also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan.

## **III. CONDITIONS**

In granting variances and modifications, the Council and Commission shall weigh the benefits or hardships against the general standards and objectives of this Ordinance, and may require such conditions as will secure substantially the objectives of the standards or requirements so varied or modified.

## **IV. FILING FEES**

Before a preliminary plat shall be considered by the commission, the sub-divider or his agent shall deposit with the City Clerk a fee of One Hundred fifty dollars (\$150.00). A receipt of such filing fee shall be filed with the preliminary plat.

Before a final plat shall be considered by the commission, the sub-divider or his agent shall deposit with the City Clerk a fee of fifty dollars (\$50.00), plus ten dollars (\$10.00) for each lot included in the final plat. A receipt of such filing fee shall be filed with the final plat.

## **V. AMENDMENTS**

Any regulations or provisions of this ordinance may be changed and amended from time to time by the City Council with such amendment being initiated by the City Council, by a motion by the Commission or by a petition by any person; provided that such changes or amendments shall not become effective until they have first been reviewed and a recommendation has been made thereon by the Commission; and further provided that a public hearing shall be held by the City Council, public notice of which shall be given in a newspaper of general circulation in the City of Durant at least fifteen (15) days prior to such hearing.

## **VI. CONFLICT AND VALIDITY**

Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standard shall govern.

Should any section, clause or provision of this ordinance be declared by a court to be invalid, the same shall not affect the validity of this ordinance be declared by a court to be invalid, the same shall not affect the validity of this ordinance as a whole or the remaining portions of this ordinance.

## **VII. ENFORCEMENT**

No plat of any subdivision shall be entitled to be recorded in the county recorder's office or have



any validity until it shall have been approved in the manner prescribed herein.

The Zoning Administrator shall not issue permits for any structure located on a lot in any subdivision, the plat of which has been prepared after the date of the adoption of this ordinance but which has not been approved in accordance with the provisions contained herein. The City Council shall not permit any public improvements over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted after the date of adoption of this ordinance unless such subdivision or street has been approved in accordance with the provisions contained herein.

#### **VII. REPEALER AND EFFECTIVE DATE**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance, including Ordinance Z-2 adopted November 15, 1983 and all amendments thereto, are hereby repealed. This ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and approved this 27th day of May, 2014.

City of Durant, Iowa

**AMENDMENTS / NEW ORDINANCES**

**CHAPTER 62 ORDINANCE NUMBER/TITLE:**

**(Ordinance text)**

**ORDINANCE NO. 2015-02**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF DURANT, IOWA, BY REPEALING SUBSECTION 13-10 (4) AND RE-ADOPTING THE SAME AS REVISED FOR PURPOSE OF CHANGING SPEED LIMIT WITHIN THE CITY CORPORATE BOUNDARIES.**

SECTION 1: Chapter 13 Sec. 10 (4):

Be it enacted by the City Council for the City of Durant, Iowa that:

Section 13-10 (4) shall be and the same hereby AMENDED by REPEALING sub section (4) that currently reads:

“4. Speed limit of 25 mph from the southern corporate limit line on Vail Avenue to 5<sup>th</sup> Street.”

And thereby be AMENDED to and REPLACED with the following language:

***“4. Speed limit of 25mph from the southern corporate limit line on Vail Avenue to the northern corporate limit line of the City of Durant on Vail Avenue becoming 14<sup>th</sup> Avenue or Cedar/Scott Road. “***

SECTION 2. REPEALER CLAUSE. Any ordinance, provision, or part thereof, which differs or is inconsistent with this ordinance, is hereby repealed, to the extent of said difference or inconsistency.

SECTION 3. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such as adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTION DATE. This ordinance shall be in effect from and after is final passage, approval, posting and publication as required by Iowa Law.

PASSED and APPROVED this 25<sup>th</sup> day of January, 2015

**ORDINANCE NO. 2015-03**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF DURANT, IOWA, BY ADDING SUBSECTION 33-10 AND RE-ADOPTING THE SAME AS REVISED FOR PURPOSE OF ADDING SNOWBIRD POLICY**

SECTION 1: Chapter 33 Sec. 33-10

Be it enacted by the City Council for the City of Durant, Iowa that:

Section 33-10 shall be and the same hereby AMENDED by ADDING sub section 33-10 that shall read:

SNOWBIRD POLICY: Residents who will be vacationing from their homes for sixty

(60) consecutive days, and who do not request their services be shut off at the curb by the city, shall be charged a minimum water bill per month. No minimum sewer bill shall be charged. Any usage will be due with monthly bill upon return of homeowner. If resident requests the shut off at the curb by the city, a onetime twenty five dollar (\$25.00) fee will be charged. If shut off at curb, no minimum of bill shall be due.

SECTION 2. REPEALER CLAUSE. Any ordinance, provision, or part thereof, which differs or is inconsistent with this ordinance, is hereby repealed, to the extent of said difference or inconsistency.

SECTION 3. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such as adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTION DATE. This ordinance shall be in effect from and after is final passage, approval, posting and publication as required by Iowa Law.

PASSED and APPROVED this 11<sup>th</sup> day of January, 2016

#### **ORDINANCE NO. 2015-04**

#### **AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF DURANT, IOWA, ZONING ORDINANCE, BY AMENDING SUBSECTION 60-21 AS REVISED FOR PURPOSE OF ADDING CAMPER REGULATIONS TO INDUSTRIAL AND COMMERCIAL ZONES.**

SECTION 1: Chapter 60 Sec. 21:

Be it enacted by the City Council for the City of Durant, Iowa that:

Section 60-21 shall be and the same hereby AMENDED by REPEALING sub section that currently reads:

. . . . .”Provided, however, that such equipment may be parked anywhere on a residential property for a period not to exceed 72 hours during loading and unloading. Parking on a public street is allowed by permit from April 15<sup>th</sup>-October 15<sup>th</sup> for loading and unloading purposes only, and not to exceed 72 hours at such location.

No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, except by permit from the City Clerk for a \$15.00 fee and no more than four (4) times per year per address for no longer than a 72 hour period provided the campers are parked on private property. “

And thereby be AMENDED to and REPLACED with the following language:

“...Provided, however, that such equipment may be parked anywhere on a residential, property for a period not to exceed 72 hours during loading and unloading. Parking on a public street is allowed by permit from April 15<sup>th</sup>-October 15<sup>th</sup> for loading and unloading purposes only, and not to exceed 72 hours at such location. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential, commercial or industrial lot, except by permit from the City Clerk and no more than four (4) times per year per address, one camper per property, for no longer than a 72 hour period provided the campers are parked on private property. Extended periods of time over 72 hours may be granted if after council

consideration and approval it is deemed extenuating circumstances exist, and prior to permit application.”

**SECTION 2. REPEALER CLAUSE.** Any ordinance, provision, or part thereof, which differs or is inconsistent with this ordinance, is hereby repealed, to the extent of said difference or inconsistency.

**SECTION 3. SEVERABILITY.** If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such as adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. EFFECTION DATE.** This ordinance shall be in effect from and after is final passage, approval, posting and publication as required by Iowa Law.

PASSED and APPROVED this 11<sup>th</sup> day of January, 2016

### **ORDINANCE NO. 2015-05**

Chapter 17 Section 17-1 through 17-13 has been amended in this Code of Ordinances. See the changes in Chapter 17 of this Code.

### **ORDINANCE NO. 2016-02**

#### **AN ORDINANCE ADOPTING THE 2012 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, REGULATING AND GOVERNING CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDING AND STRUCTURES.**

**WHEREAS, City of Durant, Iowa,** city council believes the 2012 International Property Maintenance code will provide the standards for supplied utilities and facilities, and other physical items and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the **City of Durant** proving for the issuance of permits and collection of fees.

**SECTION 1.** That the document, copies thereof, will be on file at City Hall of the **City of Durant**, being marked and designated as the International Property Maintenance Code 2012 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Durant, Iowa.

**SECTION 2. REPEALER CLAUSE.** Any ordinance, provision, or part thereof, which differs or is consistent with this ordinance, is hereby repealed, to the extent of said difference or inconsistency.

**SECTION 3. SEVERABILITY.** If any section, provision or part of this ordinance shall be

adjudged invalid or unconstitutional by a court of competent jurisdiction, such as adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. EFFECTION DATE.** This ordinance shall be effect from and after its final passage, approval, posting and publication as required by Iowa Law.

PASSED AND APPROVED this 11<sup>th</sup> day of July 2016.

### **ORDINANCE NO. 2016-03**

An ordinance designating an area of Durant, Iowa as the Durant Urban Revitalization Area

WHEREAS, pursuant to the provisions of Chapter 404, Code of Iowa (the “Code”), the governing body of a city may, by ordinance, designate an area of the city as a revitalization area upon the completion of procedures specified in the Code; and

WHEREAS, pursuant to the provisions of the Code, the city council of Durant, Iowa. Has by resolution determined, with respect to an area within the City, hereinafter described in Section 1 and known as the Durant Urban Revitalization Area, that:

- (a) The proposed Durant Urban Revitalization Area is an area which, by reason of the presence of a substantial number of deteriorated or deteriorating structures, deterioration of site or other improvements, and a combination of these and other factors, substantially impairs or arrests the sound growth of the City, constitutes an economic and social liability and is a menace to the public welfare in its present condition and use.
- (b) The proposed Durant Urban Revitalization Area is an area which is appropriate as an economic development area as defined in Section 403.17 of the Code of Iowa.
- (c) The proposed Durant Urban Revitalization area is an area which is appropriate for public improvements related to housing and residential development, or construction of housing and residential development, including single or multifamily housing.
- (d) The rehabilitation, redevelopment, economic development and promotion of housing and residential development in the Revitalization Area is necessary in the interest of the public welfare of the residents of the City, and the Revitalization Area substantially meets the criteria set for the in Section 404.1 of the Act; and

WHEREAS, pursuant to the provisions of the Code, the City prepared a proposed plan ( the “plan”) for the Durant Urban Revitalization Area and held a public hearing on the plan for the

Durant Urban Revitalization; and

WHEREAS, pursuant to the provisions of the Code, the City has adopted the Plan for the Durant Urban Revitalization Area;

NOW, THEREFORE, Be it ordained by the city council of the City of Durant, in Durant County, Iowa, as follows:

Section 1. In accordance with the Code and in consideration of the recitations set out in the preamble hereof, the area formed by contiguous real estate parcels with a legal description as follows:

*All real property situated within the incorporated limits of the City of Durant, located in Cedar County, Muscatine County and Scott County, State of Iowa as of September 1, 2016*

is hereby designated as the Durant Urban Revitalization Area.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. This ordinance shall be in effect after its final passage, approval and publication, as provided by law.

Passed and approved November 28, 2016.

## INTRODUCTION

The Urban Revitalization Act, Chapter 404 of the Code of Iowa, is intended to encourage development, redevelopment and revitalization within a designated area or areas of a city by authorizing property tax development incentives to the private sector. Qualified real estate within a designated area or areas may be eligible to receive a total or partial exemption from property taxes on

improvements for a specified number of years. The intended goal is to provide communities with a long-term increase or stabilization in the local tax base by encouraging new construction of, and remodeling and additions to, residential classifications which might not otherwise occur.

The City Council may designate an area of the City as a revitalization area, if that area meets or includes some or all of the following:

- Presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, incompatible land use relationships, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the actual value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or a combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, or welfare in its present condition and use, and
- An area which is appropriate as an economic development area as defined in Section 403.17 of the Code of Iowa, and
- An area designated as appropriate for public improvements related to housing and residential development, or construction of housing and residential development, including single or multifamily housing, and
- An area in which there is a predominance of buildings or improvements which by reason of age, history, architecture or significance should be preserved or restored to productive use, and

With the adoption of this Durant Urban Revitalization Plan (“Plan”) the Durant City Council is designating the Durant Urban Revitalization Area (“Area” or “Revitalization Area”) as being qualified under Iowa Code Section 404.1.

The City of Durant is making this designation so that properties in the designated area may benefit from the abatement of taxes on the value added by development or redevelopment activities.

The City of Durant believes that encouraging and facilitating new construction of, and remodeling and additions to, residential classifications through abatement of taxes on the value of the improvements is important to the future growth and stability of the City as well as the general health , safety, and welfare of its citizens.

As defined by State Code 403.17, “ Housing and residential development” means single or multifamily dwellings to be constructed in an area with respect to which the local governing body of the municipality determines that there is an inadequate supply of affordable, decent, safe, and sanitary housing and that providing such housing is important to meeting any or all of the following objectives: retaining existing industrial or commercial enterprises; attracting and encouraging the location of new industrial or commercial enterprises; meeting the needs of special elements of the population, such as elderly or persons with disabilities; and providing housing for various income levels of the population which may not be adequately served. Adding new families to the community is recognized as having a positive impact on the local school district as well.

## **DESIGNATION CRITERIA**



In accordance with Section 404.1 of the Code of Iowa, the City Council of Durant (“City”) has designated the Revitalization Area as appropriate for economic development and for public improvements related to housing and residential development, or construction of housing and residential development, including single or multifamily housing. In addition, the City’s Comprehensive Plan and a review of building permit history for new residential construction and the rehabilitation of existing structures, clearly shows an urgent need to facilitate and encourage new residential construction and the rehabilitation of existing residential and dual class structures within the community.

The long-term economic stability of the City to meet the ongoing and future needs and services of its residence is the underlying premise for establishing this Revitalization Area and the specific eligibility and exemption provision herein.

## **OBJECTIVES**

This Plan is prepared in conformance with Chapter 404 Urban Revitalization Tax Exemptions of the Code of Iowa for the purpose of providing incentives and outlining procedures to enhance the potential for residential development and the improvement of existing residential and dual class structures in Durant. The primary objectives of this Plan are as follows:

- Encourage new construction of, and remodeling and additions to, residential properties through abatement of taxes on the value of the improvements.
- Improve economic conditions in the area and take steps to enhance the overall quality of life and general attractiveness of the Urban Revitalization Area.
- Planning goals include revitalizing the Area through the promotion of new construction on vacant land and rehabilitation of existing property,

stabilizing and increasing the tax base overtime, and providing overall aesthetic improvement.

- Facilitate and promote new residential construction that is attractive, both visually and economically, whereby attracting new residents and families to Durant while meeting the housing needs of both local and area individuals.
- Encouraging rehabilitation and/or new construction of dual class properties, particularly along Main Street, resulting in improvements to buildings having first floor commercial use and a minimum of 50% of the remaining building area as residential use.

It may be that some of the improvements will be on land that is assessed as agricultural land. The City will present justification at the public hearing held pursuant to Section 404.2 for the revitalization of land assessed as agricultural property by means of new construction. Such justification will include information about the City's urgent need for additional housing. Such justification shall demonstrate, in addition to the other requirements of Iowa Code Chapter 404 and Section 419.17., that the improvement on land assessed as agricultural land will utilize the minimum amount of agricultural land necessary to accomplish the revitalization of the residential property within the Urban Revitalization Area. The City finds that the amount of land assessed as agricultural in the City, when that amount is compared to the amount of agricultural land in the County, is minimal and use of such land is necessary to accomplish the objectives of this Plan, as set out herein.

Section 404.2 of the Code of Iowa requires that a city prepare a plan to govern activities within a proposed revitalization area, and the balance of this document is intended to set out the elements of a plan that are mandated by state law.

**THE URBAN REVITALIZATION AREA  
(404.2 a. Legal Description)**

The revitalization area shall be known as the Durant Urban Revitalization Area, and the legal description of real property to be included within the Revitalization Area is as follows:

All properties located within the corporate limits of the City of Durant located in Cedar County, Muscatine County, and Scott County, State of Iowa as of July 1, 2016.

A map showing all properties to be included within the Revitalization Area is attached as Exhibit A.

**EXISTING ASSESSED VALUATIONS AND OWNERS OF RECORD  
(404.2 b. & c.)**

The names and addresses of owners of record and existing assessed valuations (listing land and buildings values separately) are listed in Exhibit B, which is on file at City Hall.

**EXISTING ZONING AND LAND USE  
(404.2 d.)**

The existing zoning classifications and district boundaries are illustrated on the official City Zoning Map which is attached as Exhibit A. The Existing Land Use and the Proposed Land Use, as each presented in the City's Comprehensive Plan adopted in 2012, are attached as Exhibits D and E, respectively.

**PROPOSED CITY SERVICES  
(404.2 e.)**

The City proposes that, as it becomes financially feasible, the provision of municipal services including public infrastructure improvements will be expanded and improved to help facilitate and meet the demands of new residential development.

**ELIGIBLE IMPROVEMENTS  
(404.2 f.)**

Eligible property under this Plan includes all applicable property assessed as residential (or commercial if it meets the definition under “exemptions). Eligible property improvements, as used in this Plan, include rehabilitation and additions to existing structures located within the Area. In addition, new construction on vacant land or on land with existing structures is also eligible for tax abatement.

Actual value added by improvements, as used in this Plan, means the actual value added as of the first year for which the exemption was received according to tax assessment valuation determined by the Scott County, Muscatine County, or Cedar County Assessor, whichever County the improvement is located. In order to be eligible for tax abatement, the increase in actual value of the building due to the improvement must be at least ten percent (10%) and increase the assessed value of the building in an amount not less than \$10,000. If more than one building is located on the property, the ten percent (10%) increase and \$10,000 requirements apply to both structures cumulatively, encouraging the improvement of both the primary residence and detached garage for an example. If no structures were located on the property prior to the improvements, any improvements may qualify. Increases in taxes because of the increased assessed value for land are not eligible for abatement.

All improvements in order to be considered eligible must be completed in conformance with all applicable regulations of the City of Durant including, but not limited to, City zoning regulations and the requirement of a building permit. Said improvements must be completed during the time the Area is designated as an Urban Revitalization Area. Actual value added by the improvements means the actual value added as of the first year for which the exemption was received according to tax assessment valuation per the Scott County, Muscatine County, or Cedar County Assessor, which ever apply. However, if such construction, rehabilitation, or additions were begun prior to the adoption of the Plan, the value added by such construction, rehabilitation or additions shall not be eligible for tax abatement. The date of the issuance of a building permit for any and all improvements shall be used to determine eligibility for tax abatement.

All projects eligible for tax exemption or tax abatement shall be completed within (1) one year of the issuance of the building permit. Multiple projects shall be each considered individually thereby not allowing cumulative improvements for the purpose of meeting the minimum improvement value threshold.

All improvements, in order to be considered eligible, must be completed during the time the Revitalization Area is designated by ordinance as a revitalization area. No abatement will be allowed hereunder unless the subject improvement is completed and an occupancy permit has been issued by the City with respect to the project for which the abatement is requested.

#### **TIME FRAME (404.2 f.)**

The Area shall be eligible for tax abatement under the Plan for improvements to qualified real estate that are completed on or before December 31, 2023, so that the assessor can make a full assessment as of January 1, 2024. If, in the opinion of the City Council, the desired level of revitalization has been attained or economic conditions are such that the continuation of the exemption granted would cease to be of benefit to the City, the City Council may repeal the ordinance establishing

the Urban Revitalization Area, pursuant to Section 404.7 of the Code of Iowa at any time before the time period set out above. In the event the ordinance is repealed, all existing exemptions shall continue until expiration. In addition, the City may decide to amend this Plan or extend its designation in accordance with Chapter 404.

### **EXEMPTIONS (404.3A)**

For Improvements, new residential construction of single-family or two-family homes completed after the effective date of the Ordinance adopting this Plan and for which applications are filed with the City, all qualified real estate assessed as residential property is eligible to receive a one hundred percent (100%) exemption from taxation on the Actual Value Added by the improvements. The exemption is for a period of seven (7) years.

Improvements to existing residential structures must increase the assessed value of the building by a minimum of 10% and be in an amount not less than \$10,000 and will also receive (100%) exemption from taxation on the improvement value for the same seven (7) year period.

In addition, existing property assessed as dual class or multi-residential that has a separate living quarter(s) with at least 50% of the space used for residential purpose shall be eligible to receive a 100% exemption from taxation on the actual value added by the improvements. Improvements must increase the assessed value by a minimum of 10% and be in an amount not less than \$10,000. The exemption is for a period of ten (10) years.

Multifamily residential projects assessed as multi-residential having a minimum of three (3) units and a maximum of eight (16) units per building shall be eligible to receive a 100% exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten (10) years.

**REVENUE BOND  
(404.2 f.)**

The City retains the right to issue revenue bonds for revitalization purposes as part of this Plan and as permitted by law and approved by the City Council.

**RELOCATION PROVISIONS  
(404.2 g.)**

The City does not anticipate the displacement or relocation of any persons, families, or businesses as a result of the improvements to be made in the Revitalization Area. If so, the City will comply with all requirements.

**OTHER SOURCES OF REVITALIZATION FUNDS  
(404.2 j.)**

The City has not identified any federal or state grants or loans for improvements in the Revitalization Area at this time. However, it is not the intention of the City to prohibit the use of other appropriate federal or state revitalization incentive programs within the Area.

**APPLICATION PROCEDURES**

An application shall be filed for each new exemption claimed. Application forms are available at City Hall. The property owner must apply to the City for an exemption by February 1<sup>st</sup> of the assessment year for which the exemption is first claimed. The application shall contain, but not be limited to, the following information: the nature of the improvement, its estimated construction cost, and

the estimated or actual date of completion of the improvement, and the tenants that occupied the owner's building on the date the City passed the Resolution adopting this Plan (if applicable).

### **APPROVAL OF APPLICATIONS**

Owners may submit a proposal for an improvement project to the City Council to receive prior or preliminary approval for eligibility for tax exemption on the project. The City Council shall give its prior or preliminary approval if the project is in conformance with this Plan for revitalization. However, if the proposal is not approved, the owner(s) may submit an amended proposal for the City Council to approve or reject. Such prior or preliminary approval shall not entitle the owner(s) to exemption from taxation until the improvements have been completed, meet building codes, and found to be qualified for the exemption.

For prior or preliminary approval and for formal application approvals, the City Council shall approve an application submitted for approval if:

1. The project, as determined by the City Council, is in conformance with this Plan;
2. The project is located within the Area;
3. The improvements were made during the time the Area was so designated (completed so that the first full assessment is by January 1, 2024);
4. The project has obtained a building permit from the City;



5. An occupancy permit has been issued; and
6. Any and all other legal requirements have been met.

All approved applications shall be forwarded by the City to the applicable County Assessor by March 1 for review, and a final determination of eligibility, pursuant to Section 404.5 of the Code of Iowa. The County Assessor shall make a physical review of all properties with approved applications. The County Assessor shall determine the increase in actual value for tax purposes due to the improvements and notify the applicant of the determination, which may be appealed to the local board of review pursuant to Section 441.37 of the Code of Iowa. After the initial tax exemption is granted, the County Assessor shall continue to grant tax exemption for the time period specified on the approved application. The tax exemption for the succeeding years shall be granted without the owner(s) having to file an application for succeeding years.

## CHAPTER 63

# INTERNATIONAL PROPERTY MAINTENANCE CODE

## CHAPTER 1

### SCOPE AND ADMINISTRATION

#### PART 1-SCOPE AND APPLICATION

##### SECTION 101-GENERAL

**(A) 101.1 Title.** These regulations shall be known as the *International Property Maintenance Code of City of Durant*, hereinafter referred to as “*this code.*”

**(A) 101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners, operators and occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

**(A) 101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

**(A) 101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

##### SECTION 102-APPLICABILITY

**(A) 102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code and the referenced standards, the provisions of this code shall apply. Where in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

**(A) 102.2 Maintenance.** Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner, operator or occupant* shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be responsible for the maintenance of buildings, structures and *premises*.

**(A) 102.3 Application of other codes.** Repairs, additions of alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, International Plumbing Code and NFPA 70*. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

**(A) 102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

**(A) 102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with manufacturer's instructions.

**(A) 102.6 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

**(A) 102.7 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

**Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

**(A) 102.7.1 Conflicts.** Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

**(A) 102.7.2 Provisions in referenced codes and standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

**(A) 102.8 Requirements not covered by code.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

**(A) 102.9 Application of References.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

**(A) 102.10 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

## **PART 2-ADMINISTRATION AND ENFORCEMENT**

### **SECTION 103-DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION**

**(A) 103.1 General.** The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the *code official*.

**(A) 103.2 Appointment.** The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

**(A) 103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

**(A) 103.4 Liability.** The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or

omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**(A) 103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be \$35/Hour.

#### **SECTION 104-DUTIES AND POWERS OF THE CODE OFFICIAL**

**(A) 104.1 General.** The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

**(A) 104.2 Inspections.** The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved agency* or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**(A) 104.3 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure or premises* is occupied, the *code official* shall present credentials to the *occupant* and request entry. If such *structure or premises* is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the *structure or premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

**(A) 104.4 Identification.** The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance duties under this code.

**(A) 104.5 Notices and orders.** The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

**(A) 104.6 Department records.** The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official record for the period required for retention of public records.

## **SECTION 105-APPROVAL**

**(A) 105.1 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

**(A) 105.2 Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and the material, method of work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

**(A) 105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

**(A) 105.3.1 Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

**(A) 105.3.2 Test reports.** Reports of tests shall be retained by the *code official* for the period required for retention of public records.

**(A) 105.4 Used material and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and *approved* by the *code official*.

**(A) 105.5 Approved materials and equipment.** Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

**(A) 105.6 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

## **SECTION 106-VIOLATIONS**

**(A) 106.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

**(A) 106.2 Notice of violation.** The code official shall serve a notice of violation or order in accordance with Section 107.

**(A) 106.3 Prosecution of violation.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**(A) 106.4 Violation penalties.** Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**(A) 106.5 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

## SECTION 107-NOTICES AND ORDERS

**(A) 107.1 Notice to person responsible.** Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Section 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

**(A) 107.2 Form.** Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

**(A) 107.3 Method of service.** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

**(A) 107.4 Unauthorized tampering.** Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

**(A) 107.5 Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

**(A) 107.6 Transfer of ownership.** It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order of upon whom a notice of violation has been



served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

## **SECTION 108-UNSAFE STRUCTURES AND EQUIPMENT**

**(A) 108.1 General.** When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

**(A) 108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

**(A) 108.1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the premises or structure.

**(A) 108.1.3 Structure unfit for human occupancy.** A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

**(A) 108.1.4 Unlawful structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

**(A) 108.1.5 Dangerous structure or premises.** For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements of existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement,

inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.

11. Any portion of a building remains on site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

**(A) 108.2 Closing of vacant structures.** If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the premises within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

**(A) 108.2.1 Authority to disconnect service utilities.** The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* and *occupant* of the building, structure of service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

**(A) 108.3 Notice.** Whenever the *code official* has *condemned* a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure of equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the *condemned* equipment. The notice shall be in the form prescribed in Section 107.2.

**(A) 108.4 Placarding.** Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the premises or on

defective equipment a placard bearing the word “Condemned” and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

**(A) 108.4.1 Placard removal.** The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

**(A) 108.5 Prohibited occupancy.** Any occupied structure *condemned* and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

**(A) 108.6 Abatement methods.** The *owner, operator or occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

**(A) 108.7 Record.** The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

## SECTION 109-EMERGENCY MEASURES

**(A) 109.1 Imminent danger.** When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: “This Structure Is Unsafe and Its *Occupancy* Has Been Prohibited by the *Code Official*.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

**(A) 109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is imminent danger due to an unsafe condition, the *code*

*official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

**(A) 109.3 Closing streets.** When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

**(A) 109.4 Emergency repairs.** For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**(A) 109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

**(A) 109.6 Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

## **SECTION 110-DEMOLITION**

**(A) 110.1 General.** The *code official* shall order the *owner* of any premises upon which is located any structure, which in the *code official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* to demolish and remove such structure or board up until future repair. Boarding the building for future repair shall not extend beyond one year, unless *approved* by the building official.

**(A) 110.2 Notices and orders.** All notices and orders shall comply with Section 107.

**(A) 110.3 Failure to comply.** If the *owner* of a *premises* fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private

persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**(A) 110.4 Salvage materials.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## **SECTION 111-MEANS OF APPEAL**

**(A) 111.1 Application for appeal.** Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

**(A) 111.2 Membership of board.** The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *code official* shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

**(A) 111.2.1 Alternate members.** The chief appointing authority shall appoint a minimum of two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

**(A) 111.2.2 Chairman.** The board shall annually select one of its members to serve as chairman.

**(A) 111.2.3 Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

**(A) 111.2.4 Secretary.** The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**(A) 111.2.5 Compensation of members.** Compensation of members shall be determined by law.

**(A) 111.3 Notice of meeting.** The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

**(A) 111.4 Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.

**(A) 111.4.1 Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**(A) 111.5 Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**(A) 111.6 Board decision.** The board shall modify or reverse the decision of the *code official* only by a concurring vote of a majority of the total number of appointed board members.

**(A) 111.6.1 Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the *code official*.

**(A) 111.6.2 Administration.** The code official shall take immediate action in accordance with the decision of the board.

**(A) 111.7 Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

**(A) 111.8 Stays of enforcement.** Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

## **SECTION 112- STOP WORK ORDER**

**(A) 112.1 Authority.** Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

**(A) 112.2 Issuance.** A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

**(A) 112.3 Emergencies.** Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

**(A) 112.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than fifty (50) dollars or more than seven hundred fifty (750) dollars.

## CHAPTER 2

# DEFINITIONS

### SECTION 201-GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

**201.2 Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the *International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code, International Zoning code* or NFPA 70, such terms shall have the meaning ascribed to them as stated in those codes.



**201.4 Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

**201.5 Parts.** Whenever the words “*dwelling unit*,” “*dwelling*,” “*premises*,” “*building*,” “*rooming house*,” “*rooming unit*,” “*housekeeping unit*,” or “*story*” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

## **SECTION 202-GENERAL DEFINITIONS**

**ANCHORED.** Secured in manner that provides positive connection.

**(A) APPROVED.** *Approved by the code official.*

**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes in either a *dwelling* or *sleeping unit*.

**(A) CODE OFFICIAL.** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

**CONDEMN.** To adjudge unfit for *occupancy*.

**DETACHED.** When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

**DETERIORATION.** To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

**(B) DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**(Z) EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

**EQUIPMENT SUPPORT.** Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

**EXTERIOR PROPERTY.** The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**(B) GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**(B) HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.*

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.

**INFESTATION.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

**INOPERABLE MOTOR VEHICLE.** A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**(A) LABELED.** Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

**LET FOR OCCUPANCY or LET.** To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit, rooming unit, building, premise or structure* by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**NEGLECT.** The lack of proper maintenance for a building or *structure*.

**(A) OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

**OPERATOR.** Any person who has charge, care or control of a structure or *premises* which is let or offered for occupancy.

**(A) OWNER.** Any person, agent, *operator*, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PERSON.** An individual, corporation, partnership or any other group acting as a unit.

**PEST ELIMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

**(A) PREMISES.** A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

**(A) PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one-or-two family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**(B) SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**(A) STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**ULTIMATE DEFORMATION.** The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

**(M) VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**(Z) YARD.** An open space on the same lot with a structure.

## CHAPTER 3

# GENERAL REQUIREMENTS

### SECTION 301-GENERAL

**301.1 Scope.** The provisions of this chapter shall govern the minimum conditions and the responsibilities or persons for maintenance of structures, equipment and *exterior property*.

**301.2 Responsibility.** The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* which they occupy and control.

**301.3 Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

## **SECTION 302-EXTERIOR PROPERTY AREAS**

**302.1 Sanitation.** All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

**302.2 Grading and drainage.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, within any structure located thereon.

**Exception:** *Approved* retention areas and reservoirs.

**302.3 Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

**302.4 Weeds.** All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of ten (10) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

**302.5 Rodent harborage.** All structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

**302.6 Exhaust vents.** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

**302.7 Accessory structures.** All accessory structures, including *detached garages*, fences and walls, shall be maintained structurally sound and in good repair.

**302.8 Motor vehicles.** Except as provided for in other regulation, no operative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

**302.9 Defacement of property.** No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

## **SECTION 303-SWIMMING POOLS, SPAS AND HOT TUBS**

**303.1 Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

## **SECTION 304-EXTERIOR STRUCTURE**

**304.1 General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**304.1.1 Unsafe conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state;

4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

1. When substantiated otherwise by an *approved* method.

2. Demolition of unsafe conditions shall be permitted when *approved* by the code official.

**304.2 Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. 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 water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

**(F) 304.3 Premises identification.** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7mm).

**304.4 Structural members.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**304.5 Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**304.6 Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

**304.7 Roofs and drainage.** The roof and flashing 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 downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

**304.8 Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.



**304.9 Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, 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.

**304.10 Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

**304.11 Chimneys and towers.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, 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.

**304.12 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**304.13 Window, skylight and door frames.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

**304.13.1 Glazing.** All glazing materials shall be maintained free from cracks and holes.

**304.13.2 Openable windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

**304.14 Insect screens.** During the period from, \_\_\_\_\_, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25mm), and every screen door used for insect control shall have a self-closing device in good working condition.

**Exception:** Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

**304.15 Doors.** All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

**304.16 Basement hatchways.** Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

**304.17 Guards for basement windows.** Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

**304.18 Building security.** Doors, windows or hatchways for *dwelling units, rooming units or housekeeping units* shall be provided with devices designed to provide security for the occupants and property within.

**304.18.1 Doors.** Doors providing access to a *dwelling unit, rooming unit or housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

**304.18.2 Windows.** Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit, rooming unit or housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

**304.19 Gates.** All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

## **SECTION 305 INTERIOR STRUCTURE**

**305.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

**305.1.1 Unsafe conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads or load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

**305.2 Structural members.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**305.3 Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

**305.4 Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

**305.5 Handrails and guards.** Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**305.6 Interior doors.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

## **SECTION 306 COMPONENT SERVICEABILITY**

**306.1 GENERAL.** The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

**306.1.1 Unsafe conditions.** Where any of the following conditions, cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:

1.1. Collapse of footing or foundation system;

1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;

1.3. Adverse effects to design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;

1.4. Inadequate soil as determined by a geotechnical investigation;

1.5. Where the allowable bearing capacity of the soil is in doubt; or

1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

2. Concrete that has been subjected to any of the following conditions:

2.1. *Deterioration*;

2.2. *Ultimate deformation*;

2.3. Fractures;

2.4. Fissures;

2.5. Spalling;

2.6. Exposed reinforcement; or

2.7. *Detached*, dislodged or failing connections.

3. Aluminum that has been subjected to any of the following conditions:

3.1. *Deterioration*;

3.2. Corrosion;

3.3. Elastic deformation;

- 3.4. *Ultimate deformation*;
  - 3.5. Stress or strain cracks;
  - 3.6. Joint fatigue; or
  - 3.7. *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
- 4.1. *Deterioration*;
  - 4.2. *Ultimate deformation*;
  - 4.3. Fractures in masonry or mortar joints;
  - 4.4. Fissures in masonry or mortar joints;
  - 4.5. Spalling;
  - 4.6. Exposed reinforcement; or
  - 4.7. *Detached*, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
- 5.1. Deterioration;
  - 5.2. Elastic deformation;
  - 5.3. Ultimate deformation;
  - 5.4. Metal fatigue; or
  - 5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
- 6.1. *Ultimate deformation*;
  - 6.2. *Deterioration*;
  - 6.3. Damage from insects, rodents and other vermin;
  - 6.4. Fire damage beyond charring;
  - 6.5. Significant splits and checks;
  - 6.6. Horizontal shear cracks;

- 6.7. Vertical shear cracks;
- 6.8. Inadequate support;
- 6.9. *Detached*, dislodged or failing connections; or
- 6.10. Excessive cutting and notching.

**Exceptions:**

- 1. When substantiated otherwise by an *approved* method.
- 2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

**SECTION 307 HANDRAILS AND GUARDRAILS**

**307.1 General.** Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

**Exception:** *Guards* shall not be required where exempted by the adopted building code.

**SECTION 308 RUBBISH AND GARBAGE**

**308.1 Accumulation of rubbish or garbage.** All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

**308.2 Disposal of rubbish.** Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

**308.2.1 Rubbish storage facilities.** The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**308.2.2 Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

**308.3 Disposal of garbage.** Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility and *approved* garbage containers.

**308.3.1 Garbage facilities.** The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit*; or an *approved* leak proof, covered, outside garbage container.

**308.3.2 Containers.** The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leak proof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

## **SECTION 309 PEST ELIMINATION**

**309.1 Infestation.** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

**309.2 Owner.** The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

**309.3 Single occupant.** The *occupant* of a one-family dwelling or of a single-*tenant* nonresidential structure shall be responsible for pest elimination on the *premises*.

**309.4 Multiple occupancy.** The *owner* of a structure containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior* property. If *infestation* is caused by failure of an *occupant* to prevent such infestation in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

**309.5 Occupant.** The *occupant* of any structure shall be responsible for the continued rodent and pest –free condition of the structure.

**Exception:** Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for pest elimination.

## CHAPTER 4

# LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### SECTION 401 GENERAL

**401.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a structure.

**401.2 Responsibility.** The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

**401.3 Alternative devices.** In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

### SECTION 402 LIGHT

**402.1 Habitable spaces.** Every *habitable space* shall have at least one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoin room shall be at least 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m<sup>2</sup>). The exterior glazing are shall be based on the total floor area being served.

**402.2 Common halls and stairways.** Every common hall and stairway in residential occupancies, other than in one and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior



means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 foot candle (11 lux) at floors, landings and treads.

**402.3 Other spaces.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

## **SECTION 403 VENTILATION**

**403.1 Habitable spaces.** Every habitable space shall have at least one operable window. The total operable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m<sup>2</sup>). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

**403.2 Bathrooms and toilet rooms.** Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical ventilation system from a *bathroom* or a *toilet room* shall discharge to the outdoors and shall not be recirculated.

**403.3 Cooking facilities.** Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

### **Exceptions:**

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

**403.4 Process ventilation.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

**403.5 Clothes dryer exhaust.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

**Exceptions:** Listed and *labeled* condensing (ductless) clothes dryers.

## **SECTION 404 OCCUPANCY LIMITATIONS**

**404.1 Privacy.** *Dwelling units, hotel units, housekeeping units, rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

**404.2 Minimum room widths.** A habitable room, other than a kitchen, shall be a minimum of 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

**404.3 Minimum ceiling heights.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

### **Exceptions:**

1. In one- and two-family dwellings, beams or girders spaced a minimum of 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over a minimum of one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

**404.4 Bedroom and living room requirements.** Every bedroom and living room shall comply with requirements of Sections 404.4.1 through 404.4.5.

**404.4.1 Room area.** Every living room shall contain at least 120 square feet (11.2 m<sup>2</sup>) and every bedroom shall contain a minimum of 70 square feet (6.5 m<sup>2</sup>) and every bedroom

occupied by more than one person shall contain a minimum of 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.

**404.4.2 Access from bedrooms.** *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

**Exception:** Units that contain fewer than two *bedrooms*.

**404.4.3 Water closet accessibility.** Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

**404.4.4 Prohibited occupancy.** Kitchens and non-habitable spaces shall not be used for sleeping purposes.

**404.4.5 Other requirements.** *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirement of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

**404.5 Overcrowding.** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**Table 404.5**

**MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room <sup>a,b</sup>	120	120	150
Dining room <sup>a,b</sup>	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot= 0.093 m<sup>2</sup>.

a. See Section 404.5.2 for combined living room/dining room spaces.

b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

**404.5.1 Sleeping area.** The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

**404.5.2 Combined spaces.** Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

**404.6 Efficiency unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m<sup>2</sup>). A unit occupied by not more than two *occupants* shall have a minimum clear floor area of 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three *occupants* shall have a minimum clear floor area of 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

**404.7 Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## CHAPTER 5

# PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

### SECTION 501 GENERAL

**501.1 Scope.** The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

**501.2 Responsibility.** The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* which does not comply with the requirements of this chapter.

### SECTION 502 REQUIRED FACILITIES

**(P) 502.1 Dwelling units.** Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

**(P) 502.2 Rooming houses.** At least one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

**(P) 502.3 Hotels.** Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

**(P) 502.4 Employees' facilities.** A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

**(P) 502.4.1 Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

**(P) 502.5 Public toilet facilities.** Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.

## **SECTION 503 TOILET ROOMS**

**(P) 503.1 Privacy.** *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

**(P) 503.2 Location.** *Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing a maximum of one flight of stairs and shall have access from a common hall or passageway.

**(P) 503.3 Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located a maximum of one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152m). Employee facilities shall either be separate facilities or combined employee and public facilities.

**Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152m) from the employees' regular working area to the facilities.

**(P) 503.4 Floor surface.** In other than dwelling units, every toilet room floor shall be maintained to be smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

## SECTION 504 PLUMBING SYSTEMS AND FIXTURES

**(P) 504.1 General.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

**(P) 504.2 Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

**(P) 504.3 Plumbing system hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, back siphoning, improper installation, *deterioration* or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

## SECTION 505 WATER SYSTEM

**505.1 General.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

**(P) 505.2 Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of this fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

**505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

**505.4 Water heating facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110<sup>0</sup> F (43<sup>0</sup> C). A gas-burning water heater shall not be located in any *bathroom, toilet room, bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

## **SECTION 506 SANITARY DRAINAGE SYSTEM**

**(P) 506.1 General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

**(P) 506.2 Maintenance.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks, and defects.

**(P) 506.3 Grease interceptors.** Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the code official.

## **SECTION 507 STORM DRAINAGE**

**(P) General.** Drainage of roofs and paved areas, yards and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.



## CHAPTER 6

# MECHANICAL AND ELECTRICAL REQUIREMENTS

### SECTION 601 GENERAL

**601.1 Scope.** The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

**601.2 Responsibility.** The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* which does not comply with the requirements of this chapter.

### SECTION 602 HEATING FACILITIES

**602.1 Facilities required.** Heating facilities shall be provided in structures as required by this section.

**602.2 Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68<sup>0</sup> F (20<sup>0</sup> C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

**Exception:** In areas where the average monthly temperature is above 30<sup>0</sup> F (-1<sup>0</sup> C), a minimum temperature of 65<sup>0</sup> F (18<sup>0</sup> C) shall be maintained.

**602.3 Heat supply.** Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from        to        to maintain a minimum temperature of 68<sup>0</sup> F (20<sup>0</sup>C) in all habitable rooms, *bathrooms* and *toilet rooms*.

**Exceptions:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. In areas where the average monthly temperature is above 30<sup>0</sup> F (-1<sup>0</sup> C) a minimum temperature of 65<sup>0</sup> F (18<sup>0</sup>C) shall be maintained.

**602.4 Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from        to        to maintain a minimum temperature of 65<sup>0</sup>F (18<sup>0</sup>C) during the period the spaces are occupied.

**Exceptions:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

**602.5 Room temperature measurement.** The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

## **SECTION 603 MECHANICAL EQUIPMENT**

**603.1 Mechanical appliances.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

**603.2 Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

**Exception:** Fuel-burning equipment and appliances which are *labeled* for unvented operation.

**603.3 Clearances.** All required clearances to combustible materials shall be maintained.

**603.4 Safety controls.** All safety controls for fuel-burning equipment and appliances shall be maintained in effective operation.

**603.5 Combustion air.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

**603.6 Energy conservation devices.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

## **SECTION 604 ELECTRICAL FACILITIES**

**604.1 Facilities required.** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

**604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

**604.3 Electrical system hazards.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

**604.3.1 Abatement of electrical hazards associated with water exposure.** The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

**604.3.1.1 Electrical equipment.** Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.

**Exception:** The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

**604.3.2 Abatement of electrical hazards associated with fire exposure.** The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

**604.3.2.1 Electrical equipment.** Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.

**Exception:** Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

## **SECTION 605 ELECTRICAL EQUIPMENT**

**605.1 Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

**605.2 Receptacles.** Every *habitable space* in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

**605.3 Luminaires.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire. Pool and spa luminaries over 15 V shall have ground fault circuit interrupter protection.

**605.4 Wiring.** Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

## **SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS**

**606.1 General.** Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the *code official*. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

**606.2 Elevators.** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

**Exception:** Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

## **SECTION 607 DUCT SYSTEMS**

**607.1 General.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

## CHAPTER 7

# FIRE SAFETY REQUIREMENTS

### SECTION 701 GENERAL

**701.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

**701.2 Responsibility.** The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

### SECTION 702 MEANS OF EGRESS

**(F) 702.1 General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

**(F) 702.2 Aisles.** The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

**(F) 702.3 Locked doors.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

**(F) 702.4 Emergency escape openings.** Required emergency escape opening shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

## **SECTION 703 FIRE-RESISTANCE RATINGS**

**(F) 703.1 Fire-resistance-rated assemblies.** The required fire-resistance rating of fire-resistance rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

**(F) 703.2 Opening protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smoke stop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

## **SECTION 704 FIRE PROTECTION SYSTEMS**

**(F) 704.1 General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

**(F) 704.1.1 Automatic sprinkler systems.** Inspections, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

**(F) 704.2 Smoke alarms.** Single - or multiple-station smoke alarms shall be installed and maintained in Group R or I-1 occupancies, regardless of *occupant* load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of *bedrooms*.
2. In each room used for sleeping purposes.

3. In each story within a *dwelling unit*, including *basements* and cellars but not including crawl spaces and uninhabitable attics. In dwellings or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

**(F) 704.3 Power source.** In group R or I-1 occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

**Exception:** Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

**(F) 704.4 Interconnection.** Where more than one smoke alarm is required to be installed within an individual *dwelling unit* in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all *bedrooms* over background noise levels with all intervening doors closed.

**Exceptions:**

1. Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available which could provide access for interconnection without the removal of interior finishes.



## CHAPTER 8

# REFERENCED STANDARDS

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

**ASME** American Society of Mechanical Engineers

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Standard reference number	Title	Referenced in code section number
<u>A17.1/ CSA B44-2007</u>	<u>Safety Code for Elevators and Escalators.....</u>	<u>606.1</u>

# ASTM

ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428

Standard reference number	Title	Referenced in code section number
F 1346-91 (2003)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs	
		303.2

# ICC

International Code Council, 500 New Jersey Ave, NW 6<sup>th</sup> Floor, Washington DC 20001

Standard reference number	Title	Referenced in code section number
IBC—12	International Building Code	102.3, 201.3, 401.3, 702.3
IEBC—12	International Existing Building Code	305.1.1, 306.1.1
IFC—12	International Fire Code	201.3, 604.3.1.1, 604.3.2.1, 702.1, 702.2, 704.1, 704.2
IFGC—12	International Fuel Gas Code	102.3
IMC—12	International Mechanical Code	102.3, 201.3
IPC—12	International Plumbing Code	201.3, 505.1, 602.2, 602.3
IRC—12	International Residential Code	201.3
IZC—12	International Zoning Code	102.3, 201.3

# NFPA

National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269

Standard reference number	Title	Referenced in code section number
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25—11	Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems.....	704.1.1
70—11	National Electric Code.....	102.4, 201.3, 604.2

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## APPENDIX A

# BOARDING STANDARD

**The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.**

### **A101 GENERAL**

**A101.1 General.** All windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

### **A102 MATERIALS**

**A102.1 Boarding sheet material.** Boarding sheet material shall be minimum ½ inch (12.7 mm) thick wood structural panels complying *International Building Code*.

**A102.2 Boarding framing material.** Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

**A102.3 Boarding fasteners.** Boarding fasteners shall be minimum 3/8 inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

## **A103 INSTALLATION**

**A103.1 Boarding Installation.** The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

**A103.2 Boarding sheet material.** The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

**A103.3 Windows.** The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

**A103.4 Door walls.** The door opening shall be framed with minimum 2-inch by 4-inch (51mm by 102mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

**A103.5 Doors.** Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manner.

## **A104 REFERENCED STANDARDS**

IBC---12 International Building Code

A102.1, A102.2, A102.3