

CODE OF ORDINANCES

OF THE

CITY OF

DURANT, IOWA

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

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SUPPLEMENT RECORD

[illegible]

CODE OF ORDINANCES CITY OF DURANT, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
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1.03 City Powers
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1.06 Rules of Construction
1.07 Extension of Authority

1.08 Amendments
1.09 Catchlines and Notes
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1.13 General Standards for Action
1.14 Standard Penalty

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Durant, Iowa.

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined in the *Code of Iowa*, such definitions apply to their use in this Code of Ordinances unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision. Other words and phrases used herein have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances or unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision:

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the city of Durant, Iowa.
3. “Clerk” means the city clerk of Durant, Iowa.
4. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. “Code of Ordinances” means the Code of Ordinances of the City of Durant, Iowa.
6. “Council” means the city council of Durant, Iowa.
7. “County” means Cedar County, Iowa; unless otherwise specified as Muscatine County, Iowa or Scott County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution, or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Durant, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity,

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.[†]

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

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[†] **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 4.

CHAPTER 2

CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1[3])

[†] **EDITOR'S NOTE:** Ordinance No. A-1 adopting a charter for the City was passed and approved by the Council on January 1, 1976.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties

4.04 Civil Citations
4.05 Alternative Relief
4.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.22[12])

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

(Code of Iowa, Sec. 64.24[1a] and [3])

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

3. Change Fund. The finance officer is authorized to establish a change fund for the purpose of making change without comingling other funds to meet the requirements of the office.

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

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

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

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

(545 IAC 2.5[2])

4. Debt Service Fund. Except where specifically prohibited by State law, moneys may be transferred from any other City fund to the Debt Service Fund to meet payments

of principal and interest. Such transfers must be authorized by the original budget or a budget amendment.

(545 IAC 2.5[3])

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

(545 IAC 2.5[4])

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

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

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

(545 IAC 2.5[5])

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

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

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

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

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

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Clerk, Mayor, Deputy Clerk, or Treasurer, following Council approval, except as provided by Subsection 5 hereof.

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

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

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

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program, and activity for the preceding month.

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose
8.02 Definitions
8.03 Period of Partial Exemption
8.04 Amounts Eligible for Exemption
8.05 Limitations

8.06 Applications
8.07 Approval
8.08 Exemption Repealed
8.09 Dual Exemptions Prohibited

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

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

1. “Actual value added” means the actual value added as of the first year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods that are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures that are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure that 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.
4. “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 that do not have a primary purpose of providing on-site services to the public.
5. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, and distribution centers is eligible to receive a partial exemption from taxation for a period of

five years. The exemption shall also apply to the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1[1e] of the *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.

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

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

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

1. For the first year, 75 percent.
2. For the second year, 60 percent.
3. For the third year, 45 percent.
4. For the fourth year, 30 percent.
5. For the fifth year, 15 percent.

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

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

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

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

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

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least 30 days after such hearing, the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

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

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

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

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

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

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CHAPTER 10

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
Ord. E-3	June 23, 1992	Durant Urban Renewal Area #1
Ord. E-4	May 9, 1995	Durant Urban Renewal Area #2
Ord. 2008-UD-1	November 25, 2008	Durant Urban Renewal Area #3
Ord. 2009-UD-1	December 9, 2009	Durant Urban Renewal Area Amended #3
Schumacher 2017	November 28, 2016	Durant Urban Renewal Area Amended #1

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CHAPTER 11

URBAN REVITALIZATION

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
Ord. 2016-03	November 28, 2016	

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Parks and Recreation Board
3. Police Chief (subject to Council approval)

15.04 COMPENSATION. The salary of the Mayor is \$2,400.00 per year, payable quarterly.
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

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CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. City Clerk
2. City Attorney
3. City Treasurer
4. Library Board of Trustees
5. Community Center Board
6. Parks and Recreation Board
7. Durant Light Plant Board
8. Tree Committee
9. Board of Adjustment
10. Planning and Zoning Commission

17.06 COMPENSATION. The salary of each Council member is 1,200.00 per annum, payable quarterly.

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

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CHAPTER 18

CITY CLERK

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City. The 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 Clerk shall authenticate all such measures except motions with said Clerk's signature, certifying the time and place of publication when required.

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate.

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law and Council direction.
2. Record Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.
3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
4. Special Assessments. Keep a separate account of all money received from special assessments.
5. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The Council shall appoint by majority vote a City Treasurer to serve for a term of two years.

19.02 COMPENSATION. The Treasurer is paid \$2,400 per year, payable on a quarterly basis.

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for an indefinite term. The City Attorney shall receive such compensation as established by resolution of the Council. The City Attorney shall be located in a convenient location to maintain necessary coordination with general governmental activities of the municipality.

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

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

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

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

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

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

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

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

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

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

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

20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor, Council, or Clerk.

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

20.08 PREPARE DOCUMENTS. The City Attorney shall, upon request, formulate drafts for contracts, forms, and other writings that may be required for the use of the City.

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

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CHAPTER 22

LIBRARY SERVICES

22.01 Library Board
22.02 Board Organization
22.03 Duties of the Board

22.04 Reports
22.05 Penalties

22.01 LIBRARY BOARD. A Library Board advises the Council on the contract with Scott County to provide library services. It shall also plan and oversee the gatherings, maintenance, display materials about the City, and encourage other related programs for the benefit and leisure time enjoyment of the City's residents of all ages to ensure any donated materials or monetary donations shall be used at the Durant Library and are property of the Durant Library, not Scott County Library System.

22.02 BOARD ORGANIZATION. The Board shall consist of five 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 years, except to fill vacancies, with each term to commence on January 1. 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.

22.03 DUTIES OF THE BOARD. In addition to its duty to plan for library and equipment and to update and revise those plans as required, the Board shall review and recommend actions to the Council regarding the Scott County Library contract. The Board shall convene at the request of the Mayor and City Council. The Board will also assist the librarian to select furniture, fixtures, or other equipment with budgetary limits set by the Council.

22.04 REPORTS. The Board shall make written reports to the City Council of its activities. 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.

22.05 PENALTIES. Violation of a Board rule, which has been approved by the City Council and 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 month may be appealed to the Board for a hearing. The violation may also be prosecuted under provisions of Chapter 4 of this Code of Ordinances if a serious offense.

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CHAPTER 23

COMMUNITY CENTER BOARD

23.01 COMMUNITY CENTER BOARD. There is hereby established a Community Center Board. The Board shall be composed of five members, to include five members of the community that live within the City, nominated by the Mayor and approved by the City Council. Board members shall serve overlapping four-year terms. The Board may select a Chairman and schedule meetings as it may desire or when directed by the Council. The Board is subject to open meeting laws and shall provide written minutes to the Council for each meeting.

1. The Board will act as a primary liaison between the director and the public for all matters pertaining to the Community Center. That Center, for purposes of this chapter, 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:
 - A. Guidance for Community Center management concerning any issues for the building brought to the Board by Council, public, or management.
 - B. Council shall manage all personnel issues, per the *Code of Iowa*.
 - C. The Board shall serve as volunteers with no compensation.
 - D. Wholesale and retail pricing of all goods and services offered by the Center.
 - E. The Board shall be responsible for fundraising to make improvements for the Center that are not classified as routine maintenance.
 - F. Recommendations to the Council concerning any matters the Board considers to be beneficial to the operation and maintenance of the Center.
2. 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.

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CHAPTER 24

PARKS AND RECREATION BOARD

24.01 Parks and Recreation Board Created
24.02 Board Organization
24.03 Duties of the Board

24.04 Reports
24.05 Rules
24.06 Penalties

24.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the 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. The Board members serve as volunteers with no compensation.

24.02 BOARD ORGANIZATION. The Board shall consist of five members, all citizens of the City, appointed by the Mayor with the approval of the Council for overlapping five-year terms. The Board shall choose its Chairman and Vice Chairman every two years thereafter. Vacancies shall be filled in the same manner as original appointments.

24.03 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 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 Council for park and recreation operations. The Board shall have the same expenditure procedure as explained in the City Financial Management policy whereby any expense at or above \$1,000 must have Council approval.

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

24.05 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 Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

24.06 PENALTIES. Violation of a Board rule, which has been approved by the Council and adopted by ordinance, may be subject to denial of use of a facility or participation in a program, or municipal infraction. The violation may also be prosecuted under the Municipal Infraction Ordinance outlined in Chapter 4.

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CHAPTER 30

POLICE DEPARTMENT

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

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

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

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

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

30.04 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.
(Code of Iowa, Sec. 80B.11[2])
(501 IAC 3 and 8)

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

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

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

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

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

(Code of Iowa, Sec. 321.266)

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

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

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

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

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

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

11. Council Meetings. The Police Chief shall serve as Sergeant at Arms at Council meetings and provide monthly reports, and additional reports upon activities as Police Chief, as requested by the Council.

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

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

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

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose	35.08 Fires Outside City Limits
35.02 Election of Officers	35.09 Fire Department Advisory Board
35.03 Fire Chief's Duties	35.10 Board Organization
35.04 Volunteer Firefighters	35.11 Duties of the Board
35.05 Fire Fighters' Duties	35.12 Reports
35.06 Worker's Compensation Hospitalization Insurance	35.13 Rules
35.07 Liability Insurance	

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

35.02 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, 3rd 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 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 the Council. Appeals must be in writing and filed at City Hall within five days of removal of an officer.

35.03 FIRE CHIEF 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 Council approval, the Fire Chief shall establish and maintain departmental rules to carry out the requirements of this chapter. The Fire Chief has the authority to enter and inspect any building or premises in the performance of his duties and shall make written orders to correct any conditions that are likely to cause fire or endanger other buildings and property.

35.04 VOLUNTEER FIREFIGHTERS. All persons who within a radius of three miles of the Durant fire station and are at least age 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 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 said removal to the Council by filing a written appeal with the City Hall within five days of said removal from the Fire Department.

35.05 FIREFIGHTER'S DUTIES. When called by the Chief, all firefighters 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 firefighter who has been appointed

by the Chief to be in command temporarily. Firefighters shall report for training as ordered by the Chief.

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

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

35.08 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.

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

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

35.11 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 Clerk and Fire Chief.

35.12 REPORTS. The Fire Department's revenue and expenditures shall be reported monthly by the Clerk to the Council as required by law. The Fire Chief shall make a report to the 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 Firefighter's Inc., but a full accounting of Firefighter's Inc. shall not be required by the Council but may be required by the Auditors Office of the State of Iowa.

35.13 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 Council.

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

41.12 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB

guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building without written consent of the Council.

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

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

41.14 FIREWORKS. The sale of fireworks within the City is subject to the following:

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section, definitions are enumerated in Section 727.2 of the *Code of Iowa*, which definitions are incorporated herein by reference.
2. Sales - General Requirements. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the City Building Inspector:
 - A. License. Proof of valid license issued from the State Fire Marshal.
 - B. Liability Insurance. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.00.
3. Fire Inspection. Any property, building, or premise (whether it be permanent or temporary) intended for the sale of consumer fireworks shall have an initial fire inspection completed by the Inspector prior to engaging in the sale of consumer fireworks. The Inspector shall cause an annual inspection to occur meeting the requirements of the *National Fire Protection Code 1124 (2018 Edition)* and the current fire code adopted by the City. Inspection costs shall be assessed as follows:
 - A. Permanent Structure Where Fireworks Are Sold. Annual inspection fee of \$100.00.
 - B. Temporary or Non-Brick-and-Mortar Building Where Fireworks Are Sold. Annual inspection fee of \$200.00.
4. Dates of Sale. Consumer fireworks sales shall only be conducted in accordance with dates and times designated by Section 727.2 of the *Code of Iowa*. It shall be unlawful to sell consumer fireworks without meeting the requirements specified in this chapter, or to sell fireworks outside of the dates specified.
 - A. Approved consumer fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8, and from December 10 until January 3.
 - B. Approved consumer fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.
5. Safety Requirements. The following safety requirements shall be adopted for all locations where consumer fireworks are sold:
 - A. All transportation, storage, and sales of consumer fireworks shall conform to the safety standards set forth by the *National Fire Protection Code 1124 (2018 Edition)*, including but not limited to, those standards concerning separation distance requirements and aggregate weight limits.

- B. There shall be no more than 1,000 pounds of 1.4G consumer fireworks on site at any temporary structure sales location.
- C. Any permanent structure used primarily for the purpose of consumer fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway and 110 feet from an inhabited building.
- D. Any temporary structure having between 500 and 1,000 pounds of total aggregate weight of DOT 1.4 class consumer fireworks shall be located 55 feet from a property line, public roadway, alley, or highway and 110 feet from an inhabited building.
- E. Smoking, open flame source, or matches shall not be located within 50 feet of where consumer fireworks are sold. The following exemptions apply:
 - (1) Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where consumer fireworks are not the primary business.
 - (2) Locations that engage in consumer fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.
- 6. All electrical wiring shall meet *NFPA 70 National Electrical Code*. Permanent structures or buildings used primarily for consumer fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.
- 7. Locations. Consumer fireworks sales shall only be allowed in areas zoned for commercial use.
 - A. Locations shall maintain 48-inch clear aisles between consumer fireworks display shelves.
 - B. Locations shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that exit signs shall be illuminated in permanent structures.
 - C. Consumer fireworks sales shall only be permitted in a single story at-grade building or structure to facilitate easy exiting during an emergency.
 - D. Locations shall have a minimum of two 10-pound ABC-rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.
 - E. All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed.
 - F. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within eight seconds.
 - G. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where consumer fireworks are sold.
 - H. No more than one conex container or approved explosive magazine shall be located on site for short-term storage of extra product. All containers

shall be properly placarded and equipped with tamper-proof locking devices. It is permitted to place containers in a security fenced area.

- I. Individual consumer fireworks devices or opened consumer fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.
8. Age Requirement. No person shall sell a DOT 1.4 class consumer firework to a person under the age of 18.
9. Sales Illegal Under the Influence. Consumer fireworks shall not be sold by or to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.
10. Discharge of Fireworks.
 - A. As per section 47.03 of City Code, no fireworks shall be discharged on any public or city property, including streets, avenues, parks, and right of ways. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework without parental supervision. **Ordinance Amendment 2023-02 9/25/23**
 - B. A person shall only discharge a consumer fireworks device on real property they own or on property where consent has been given, so long as all trash, wrappers, wires and waste are picked up on property and surrounding properties that the waste has blown into. Novelties, including snakes, sparklers, or caps, can NOT be discharged on a public place. If complaints are filed with city hall or police department due to waste from discharge of fireworks, property owner can be charged with municipal infraction fee of \$500 for failure to clean up. **Ordinance Amendment 2023-02 9/25/23**
 - C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.
 - D. Any person discharging a consumer fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.
 - E. No person shall discharge a consumer fireworks device outside the following dates and hours:
 - (1) July 3rd thru July 4th from the hours of noon until 11:00 pm.
 - (2) December 31st thru January 1st from the hours of noon until mind. **Ordinance Amendment 2023-02 9/25/23**
 - F. It shall be unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.
 - G. Sky lantern open flame devices are not permitted to be released within the City limits.
 - H. The Fire Chief has the authority to ban the use of any fireworks by definition if the conditions warrant a burn ban implemented by State, County, or local jurisdictions.

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

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

12. Violations. Violations of this section shall be at the discretion of the Fire Chief or Peace Officer.

13. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theater; or for signal purposes in athletic sports; or by railroads or trucks for signal purposes; or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

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

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

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

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

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry

42.05 Fraud
42.06 Theft
42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

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

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

D. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through Grade 12.

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

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

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

(Code of Iowa, Sec. 123.46)

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

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

(Code of Iowa, Sec. 123.47)

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CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

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

F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.

2. Curfew Established.

A. Unless accompanied by a responsible adult, it is unlawful for any minor 15 years of age or younger to be or remain upon any of the alleys, streets, or public places or to be in places of business and amusement in the City during the following times:

(1) September 1 through May 31, between the hours of 10:00 p.m. and 5:00 a.m. each day.

(2) June 1 through August 31, between the hours of 11:00 p.m. and 5:00 a.m. each day.

B. Unless accompanied by a responsible adult, it is unlawful for any minor 16 through 17 years of age to be or remain upon any of the alleys, streets, or public places or to be in places of business and amusement in the City during the following times:

(1) September 1 through May 31, between the hours of 11:00 p.m. and 5:00 a.m. each day.

(2) June 1 through August 31, between the hours of midnight and 5:00 a.m. each day

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

A. The minor is accompanied by a responsible adult.

B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.

C. The minor is present at or is traveling between home and one of the following:

(1) Minor’s place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;

(2) Minor’s place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;

(3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;

(4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.

- D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.
5. Enforcement Procedures.
- A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.
 - B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any nonsecured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
 - C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.
 - D. Minor Without Adult Supervision. If a law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.
6. Penalties.
- A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.
 - B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a municipal infraction.
 - C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states

that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

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

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

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

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

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

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CHAPTER 47

PARK REGULATIONS

47.01 Commercial Activity
47.02 Placing Advertising In Parks
47.03 Firearms and Fireworks
47.04 Pets
47.05 Park Hours
47.06 Baseball Diamond Curfew
47.07 Unlicensed Motor Vehicles

47.08 Motor Vehicles
47.09 Parking
47.10 Littering
47.11 Skateboards In Parks
47.12 Inflatables In Parks
47.13 Sales of Articles or Services
47.14 Park Rentals of Shelters and Ball Fields

47.01 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.

47.02 PLACING ADVERTISING IN PARKS. 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 Council.

47.03 FIREARMS AND FIREWORKS. It is unlawful for any person to have in their possession, shoot, fire, or explode any firearms, fireworks, or explosives on park property.

47.04 PETS. No pets are allowed in City parks except on a maximum six-foot length leash. All pet waste must be cleaned up by owners.

47.05 PARK HOURS.

1. 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. on 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.
2. It shall be unlawful for any 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 persons shall have secured a special permit from the Clerk to occupy or be present in said park at such time.
3. Any section or part of a public park may be declared closed to the public by the Council at any time and at an interval of time, either temporarily or at regular or stated intervals.

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

47.07 UNLICENSED MOTOR VEHICLES. It is unlawful for any person to operate an unlicensed vehicle on park property. All City 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.

47.08 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 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.

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

47.10 LITTERING. It is unlawful for any person to litter park property.

47.11 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 skateboards shall not be allowed in any other parks, or park shelters.

47.12 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.

47.13 SALES OF ARTICLES OR SERVICES. 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.

47.14 PARK RENTALS OF SHELTERS AND BALL FIELDS. Shelters and ball fields at the parks are available for rent. Rental fees shall be set by the Parks and Recreation Board with Council approval by resolution. Applicants must complete the reservation form at City Hall and pay full rental fees at the time of reservation. The City will post the reservation on the day of the event.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.
10. **Diseased Trees.** Trees infected with disease. **(See also Chapter 151)**

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

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

13. **Hazardous Accumulations.** 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.

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

1. Junk and Junk Vehicles (**See Chapter 51**)
2. Noise Pollution (**See Chapter 52**)
3. Storage and Disposal of Solid Waste (**See Chapter 105**)
4. Dangerous Buildings (**See Chapter 145**)
5. Trees (**See Chapter 151**)

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. **Contents of Notice to Property Owner.** The notice to abate shall contain: [†]

[†] **EDITOR'S NOTE:** A suggested form of notice for the abatement of nuisances is included in the Appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the *Code of Iowa* rather than this procedure.

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

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 4 of this Code of Ordinances.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51.04 EXCEPTIONS. The provisions of this chapter 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 Regulations 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.

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

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

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CHAPTER 52

NOISE POLLUTION

52.01 Purpose
52.02 Definitions

52.03 Measurement of Noise and Sound

52.04 Maximum Noise Standards By Districts
52.05 Sound Equipment and Amplifying Equipment

52.01 PURPOSE. The purpose of this chapter is to establish standards for the control of noise pollution in the City by setting maximum permissible sounds levels for zoning districts and also for various activities, regardless of the zoning district, in order to protect the public health, safety, and general welfare of the community.

52.02 DEFINITIONS.

1. “Amplified sound” means sound that is increased in intensity and duration by electrical, electronic, mechanical, or other nonhuman means.
2. “Decibel” or “(dB)” means a unit used to measure the intensity of a sound or the power level of an electrical signal by comparing it with a given level on a logarithmic scale.
3. “Noise” means the intensity, duration, and character of sounds from any and all sources.
4. “Person” means any individual, corporation, partnership, association, governmental body, State, or other entity whatsoever.
5. “Public place” means any street, avenue, boulevard, highway, sidewalk, or alley, or similar place owned or controlled by the City, including any structure or park.
6. “Sound” means a temporal and spatial oscillation in pressure, or other physical quality, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.
7. “Sound level meter” means a device that includes a microphone, amplifier, RMS detector and integrator, time average, output or display meter, and weighting networks used to measure and read sound pressure levels which, when properly calibrated, complies with American National Standards Institute (ANSI).
8. “Weighted sound level” means the pressure level in decibels as measured on a sound level using the A-Weighting network. The level so read shall be designated dB(A) or dBA.

52.03 MEASUREMENT OF NOISE AND SOUND. The measurement of noise and sound shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system on an annual basis. Measurements recorded shall be taken as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create an unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required.

52.04 MAXIMUM NOISE STANDARDS BY DISTRICTS. A sound measured to register in excess of the maximum permitted levels according to the following table, is declared to be excessive and unusually loud and is unlawful.

DISTRICT	MAXIMUM PERMITTED SOUND LEVEL
RESIDENTIAL (including home businesses)	60 decibels between 7:00 a.m. and 10:00 p.m. 50 decibels between 10:00 p.m. and 7:00 a.m.
COMMERCIAL	65 decibels between 7:00 a.m. and 10:00 p.m. 50 decibels between 10:00 p.m. and 7:00 a.m.
INDUSTRIAL (in general)	80 decibels
INDUSTRIAL (bordering residential)	80 decibels between 7:00 a.m. and 10:00 p.m. 70 decibels between 10:00 p.m. and 7:00 a.m.

52.05 SOUND EQUIPMENT AND AMPLIFYING EQUIPMENT.

1. No one may use, operate, or cause to be used or operated any radio, record player, tape deck or player, loudspeaker, amplifier, sound truck, or other device for producing, reproducing, or amplifying sound (hereinafter referred to as sound equipment) upon public streets or in any building, or upon any premises, public or private, if the sound created is plainly audible across a residential property boundary from any public street or public place within the City unless said person:
 - A. First obtains permission from the City Council in accordance with this chapter;
 - B. Complies with any conditions imposed by the written permission, including permitted sound level shown therein; and
 - C. Complies with all other applicable provisions of this chapter
2. Sound equipment does not include:
 - A. Church or clock carillons, bells or chimes.
 - B. Equipment used for public health and safety purposes.
 - C. Parades, processions, or other public events for which the Council has approved the event, or by fact the event takes place to honor residents (such as Memorial Day or Veterans Day).
3. Obtaining Permission from Council. In order to obtain permission and approval from the Council, a request shall be made to the City Clerk, along with any information upon which the City may need to base their decision. Requester shall appear at the Council meeting no longer than 60 days prior to the date of event.
4. Exemptions: The requirements, prohibitions, and terms of this chapter shall not apply the following:
 - A. Emergency vehicles using sirens, horns, or loud speakers in the case of an emergency.
 - B. Annual community carnival, parades, and music fest (these shall end at 11:00 p.m.).
 - C. Any utility performing emergency work within the City corporate limits as it applies to equipment and trucks. They are not exempt from the loud music.

- D. Activities of a temporary duration, permitted by law and for which City has granted permission including but not limited to fireworks display, outdoor warning system, and athletic events.
- E. Semi-tractor engine brakes.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.09 Animal Nuisances
55.02 Animal Neglect	55.10 Rabies Vaccination
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55.01 DEFINITIONS. The following terms are defined for use in this chapter.

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

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

2. "Animal" means a nonhuman vertebrate.

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

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

(Code of Iowa, Sec. 162.2)

4. "At large" means any licensed or unlicensed animal found off the premises of the owner and not restrained within a motor vehicle, housed in a veterinary hospital or kennel, or on a leash.

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

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

- A. The sale or offer for sale of goods or services.
- B. A recruitment for employment or membership in an organization.
- C. A solicitation to make an investment.
- D. An amusement or entertainment activity.

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

(Code of Iowa, Sec. 717.B1)

7. "Fair" means any of the following:

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

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

- B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
(*Code of Iowa, Sec. 717E.1*)
9. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.
(*Code of Iowa, Sec. 717.B1*)
10. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry (including ducks and chickens); and, specifically, pot belly pigs and mini or teacup pigs.
(*Code of Iowa, Sec. 717.1*)
11. “Owner” means any person or persons, firm, association, or corporation owning, keeping, sheltering, or harboring an animal.
12. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.
(*Code of Iowa, Sec. 717E.1*)
13. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.
(*Code of Iowa, Sec. 162.2*)
14. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.
(*Code of Iowa, Sec. 162.2*)
15. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.
(*Code of Iowa, Sec. 717.B1*)
16. “Wild animal” means any animal as defined in Section 717.F1(5) of the *Code of Iowa*.

55.02 ANIMAL NEGLECT.

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

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

- A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.
 - B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.
 - C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.
 - D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.
 - E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.
 - F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:
 - (1) A condition caused by failing to provide for the animal's welfare as described in this section.
 - (2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.
2. This section does not apply to any of the following:
 - A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:
 - (1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.
 - (2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

55.05 LIVESTOCK 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 chickens, 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 100 feet from the boundary of any residential district.

55.06 WILD ANIMALS PROHIBITED. No person shall keep or permit to be kept on their premises any wild animal, as defined in Section 717.F1 of the *Code of Iowa* for any purpose including display or for exhibition purposes, whether gratuitously or for a fee. This section shall be construed to apply to zoological parks, wildlife sanctuaries, holder of wildlife rehabilitation permit, performing animal exhibitions, or circuses. No person shall keep or permit to be kept an wild animal as a pet. Any wild animal found within the City limits is subject to immediate seizure as contraband. Any animal so seized shall be turned over to the appropriate humane society or animal rescue, or rehabilitation center.

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

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

55.09 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.

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. 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 thereunder.

1. 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 days after notice, the responsibility for the dogs shall be transferred to the Muscatine Humane Society.
2. 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 days after notice, the responsibility and dog will be transferred to the Muscatine Humane Society physical custody.

(Code of Iowa, Sec. 351.37)

Impoundments in the Previous 12 Months	Impounding Fee*
First Impoundment	\$50.00
Second Impoundment	\$75.00
Third Impoundment	\$100.00
*Plus, any other legal fees, licensing fees, and court costs. These fees shall apply to any and all animals impounded in the previous 12 months with the same owner.	

55.14 PET AWARDS PROHIBITED.*(Code of Iowa, Ch. 717E)*

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

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

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

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

(Code of Iowa, Sec. 351.46)

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

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CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 Animal Limit
56.03 License Fees

56.04 License and Tag Issued
56.05 Kenneled Dogs

56.01 ANNUAL LICENSE REQUIRED. Every owner of a dog six months shall procure a dog license from the City Clerk annually.

56.02 ANIMAL LIMIT. The number of dogs or cats, six months of age or older, shall be limited to four per household, only three of the same species. (For example three cats, one dog or three dogs, one cat.) The limitation shall not apply to bonafide pet store in an appropriately zoned, or to a licensed kennel or veterinary hospital or clinic. No person shall harbor or maintain such a number of animals as to create unhealthful or unsanitary conditions for the humans or animals occupying the premises or create any other conditions constituting a nuisance.

56.03 LICENSE FEES. The annual license fee shall be \$5.00 for each spayed and neutered dog. The annual license fee shall be \$10.00 for any dog not spayed or neutered.

56.04 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 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.

56.05 KENNELED DOGS. 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.

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CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definition

57.02 Dangerous Animal Exceptions

57.03 Dangerous Animals At Large

57.04 Notice To Remove

57.05 Appeal and Hearing

57.06 Seizure, Impoundment, and Destruction

57.07 Costs and Expenses

57.01 DEFINITION. It is unlawful for any person to own, keep, harbor, be in control of, or be in possession of a dangerous animal within the City. For the purpose of this chapter, an animal is dangerous if it meets at least one of the following criteria:

1. Any animal that bites or attacks any person or other domestic animal without provocation either on public or private property
2. Any animal with a history, tendency, propensity, or disposition to attack or to cause injury to or to otherwise endanger the safety of a person or other domestic animals.
3. Any animal who, in a dangerous or terrorizing manner, approaches any person or other domestic animal and displays threatening or aggressive behavior.
4. Any animal trained for dog fighting, animal fighting, or animal baiting, or is owned or kept for such purposes.
5. Any animal trained to attack human beings, upon command or spontaneously in response to human activities; or
6. Any animal previously adjudicated by a court to be dangerous.
7. “Dangerous animal” also means: [†]
 - A. Badgers, wolverines, weasels, skunks, and mink.
 - B. Raccoons.
 - C. Bats.
 - D. Scorpions.
 - E. Any animals declared to be dangerous by the City Council.

57.02 DANGEROUS ANIMAL EXCEPTIONS. The keeping of dangerous animals shall not be prohibited in the following circumstances (after obtaining the written approval of the City Council):

1. In a public zoo.
2. In a bona fide educational or medical institution or humane society.
3. In a museum where they are kept as live specimens for the public to view.
4. For the purpose of instruction, research, or study.

[†] **EDITOR’S NOTE:** Certain other dangerous animals, listed in Chapter 717F.1, Paragraph 5a, of the *Code of Iowa*, are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

5. Any animal owned by, and under control of, the Police Department or a law enforcement agency of the State, United States, or any branch of the armed forces of the United States.

57.03 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.

57.04 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 57.02; or destroy the animal.
 - C. A statement that such action must be taken within three 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 days of receipt of the notice described herein.

57.05 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 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 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 days from the date of receipt to remove the dangerous animal.

57.06 SEIZURE, IMPOUNDMENT AND DESTRUCTION. If the person receiving notice fails to comply with an order under Section 57.04 or with the Council's decision under Section 57.05, the Police Chief shall seize and impound the animal. An animal so seized shall be impounded for a period of seven 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 57.02, or by destruction in humane manner.

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

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title	60.05 Reports of Traffic Accidents
60.02 Definitions	60.06 Peace Officer's Authority
60.03 Administration and Enforcement	60.07 Obedience to Peace Officers
60.04 Power to Direct Traffic	60.08 Parades Regulated

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

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means all areas zoned commercial, light industrial, and heavy industrial. Business District also means the territory contiguous to and including the following designated streets:

West 1st Avenue through 14th Avenue on 5th Street; 200 feet to the north or to alley from middle of 5th Street and 135 feet to the south from middle of 5th Street.

2. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
3. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
4. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
5. “Residential districts” means all areas of the City not included in business districts.

(Subsection 5 – Ord. 2021-04 – Oct. 21 Supp.)

6. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
7. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
8. “Stop” means when required, the complete cessation of movement.
9. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. **Permission Required.** No person shall conduct or cause any parade on any street except after obtaining permission from Council by way of a resolution for street closures for time frame of parade.
2. **Parade Not a Street Obstruction.** Any parade for which permission has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

3. Control by Police and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Engine Brakes and Compression Brakes

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

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

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

51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.
55. Section 321.299 – Overtaking a vehicle.
56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.309 – Towing.
62. Section 321.310 – Towing four-wheel trailers.
63. Section 321.312 – Turning on curve or crest of grade.
64. Section 321.313 – Starting parked vehicle.
65. Section 321.314 – When signal required.
66. Section 321.315 – Signal continuous.
67. Section 321.316 – Stopping.
68. Section 321.317 – Signals by hand and arm or signal device.
69. Section 321.318 – Method of giving hand and arm signals.
70. Section 321.319 – Entering intersections from different highways.
71. Section 321.320 – Left turns; yielding.
72. Section 321.321 – Entering through highways.
73. Section 321.322 – Vehicles entering stop or yield intersection.
74. Section 321.323 – Moving vehicle backward on highway.
75. Section 321.323A – Approaching certain stationary vehicles.
76. Section 321.324 – Operation on approach of emergency vehicles.
77. Section 321.324A – Funeral processions.
78. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
79. Section 321.330 – Use of crosswalks.
80. Section 321.332 – White canes restricted to blind persons.
81. Section 321.333 – Duty of drivers.
82. Section 321.340 – Driving through safety zone.
83. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
84. Section 321.342 – Stop at certain railroad crossings; posting warning.

- 85. Section 321.343 – Certain vehicles must stop.
- 86. Section 321.344 – Heavy equipment at crossing.
- 87. Section 321.344B – Immediate safety threat; penalty.
- 88. Section 321.354 – Stopping on traveled way.
- 89. Section 321.359 – Moving other vehicle.
- 90. Section 321.362 – Unattended motor vehicle.
- 91. Section 321.363 – Obstruction to driver's view.
- 92. Section 321.364 – Preventing contamination of food by hazardous material.
- 93. Section 321.365 – Coasting prohibited.
- 94. Section 321.367 – Following fire apparatus.
- 95. Section 321.368 – Crossing fire hose.
- 96. Section 321.369 – Putting debris on highway.
- 97. Section 321.370 – Removing injurious material.
- 98. Section 321.371 – Clearing up wrecks.
- 99. Section 321.372 – Discharging pupils, stopping requirements; penalties.
- 100. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 101. Section 321.381A – Operation of low-speed vehicles.
- 102. Section 321.382 – Upgrade pulls; minimum speed.
- 103. Section 321.383 – Exceptions; slow vehicles identified.
- 104. Section 321.384 – When lighted lamps required.
- 105. Section 321.385 – Head lamps on motor vehicles.
- 106. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 107. Section 321.387 – Rear lamps.
- 108. Section 321.388 – Illuminating plates.
- 109. Section 321.389 – Reflector requirement.
- 110. Section 321.390 – Reflector requirements.
- 111. Section 321.392 – Clearance and identification lights.
- 112. Section 321.393 – Color and mounting.
- 113. Section 321.394 – Lamp or flag on projecting load.
- 114. Section 321.395 – Lamps on parked vehicles.
- 115. Section 321.398 – Lamps on other vehicles and equipment.
- 116. Section 321.402 – Spot lamps.
- 117. Section 321.403 – Auxiliary driving lamps.
- 118. Section 321.404 – Signal lamps and signal devices.
- 119. Section 321.404A – Light-restricting devices prohibited.

- 120. Section 321.405 – Self-illumination.
- 121. Section 321.408 – Back-up lamps.
- 122. Section 321.409 – Mandatory lighting equipment.
- 123. Section 321.415 – Required usage of lighting devices.
- 124. Section 321.417 – Single-beam road-lighting equipment.
- 125. Section 321.418 – Alternate road-lighting equipment.
- 126. Section 321.419 – Number of driving lamps required or permitted.
- 127. Section 321.420 – Number of lamps lighted.
- 128. Section 321.421 – Special restrictions on lamps.
- 129. Section 321.422 – Red light in front, rear lights.
- 130. Section 321.423 – Flashing lights.
- 131. Section 321.430 – Brake, hitch, and control requirements.
- 132. Section 321.431 – Performance ability.
- 133. Section 321.432 – Horns and warning devices.
- 134. Section 321.433 – Sirens, whistles, and bells prohibited.
- 135. Section 321.434 – Bicycle sirens or whistles.
- 136. Section 321.436 – Mufflers, prevention of noise.
- 137. Section 321.437 – Mirrors.
- 138. Section 321.438 – Windshields and windows.
- 139. Section 321.439 – Windshield wipers.
- 140. Section 321.440 – Restrictions as to tire equipment.
- 141. Section 321.441 – Metal tires prohibited.
- 142. Section 321.442 – Projections on wheels.
- 143. Section 321.444 – Safety glass.
- 144. Section 321.445 – Safety belts and safety harnesses; use required.
- 145. Section 321.446 – Child restraint devices.
- 146. Section 321.449 – Motor carrier safety rules.
- 147. Section 321.449A – Rail crew transport drivers.
- 148. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
- 149. Section 321.450 – Hazardous materials transportation regulations.
- 150. Section 321.454 – Width of vehicles.
- 151. Section 321.455 – Projecting loads on passenger vehicles.
- 152. Section 321.456 – Height of vehicles.
- 153. Section 321.457 – Maximum length.

- 154. Section 321.458 – Loading beyond front.
- 155. Section 321.460 – Spilling loads on highways.
- 156. Section 321.461 – Trailers and towed vehicles.
- 157. Section 321.462 – Drawbars and safety chains.
- 158. Section 321.463 – Maximum gross weight; exceptions, penalties.
- 159. Section 321.465 – Weighing vehicles and removal of excess.
- 160. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 ENGINE BRAKES AND COMPRESSION BRAKES. It is unlawful for the driver of any vehicle to use or operate within the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle which results in excessive, loud, unusual, or explosive noise from such vehicle (except in the case of an emergency); or to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use or to the annoyance or offense of any person.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – 20 miles per hour.
2. Residence or School District – 25 miles per hour.
3. Suburban District – 45 miles per hour.

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of 15 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. All alleys within the corporate limits.
2. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. All corporate City streets unless otherwise posted.

- B. From the southern corporate limit line on Vail Avenue to the northern corporate limit line of the City on Vail Avenue becoming 14th Avenue or Cedar/Scott Road.
 - C. From 9th Avenue west to 5th Avenue.
3. Special 30 MPH Speed Zones. A speed in excess of 30 miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. From 14th Avenue to 9th Avenue.
 - B. From 5th Avenue to west 1st Avenue.

Ordinance Amendment 2023-01 04/24/2023

4. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
- C. On 1st Avenue, between HWY 927 and north corporate line.
5. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. 5th Street, from east City limits to 14th Avenue
 - B. From West 1st Avenue to west City limits.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns

64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

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

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

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

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

- NONE -

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets
65.02 Stop Required
65.03 Two-Way Stop Intersections
65.04 Three-Way Stop Intersections
65.05 Four-Way Stop Intersections
65.06 Yield Required

65.07 School Stops
65.08 Stop Before Crossing Sidewalk
65.09 Stop When Traffic Is Obstructed
65.10 Yield to Pedestrians in Crosswalks
65.11 Official Traffic Controls

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

(Code of Iowa, Sec. 321.345)

- NONE -

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

(Code of Iowa, Sec. 321.345)

1. Vehicles traveling southbound on Yankee Avenue (1st Avenue) shall stop at 5th Street.
2. Vehicles traveling westbound on 7th Street shall stop at 1st Avenue.
3. Vehicles traveling southbound on 2nd Avenue shall stop at 7th Street.
4. Vehicles traveling northbound on 3rd Avenue shall stop at 7th Street.
5. Vehicles traveling eastbound on 7th Street shall stop at 14th Avenue.
6. Vehicles traveling westbound on 7th Street shall stop at 14th Avenue.
7. Vehicles traveling eastbound on 8th Street shall stop at 14th Avenue.
8. Vehicles traveling eastbound on 9th Street shall stop at 14th Avenue.
9. Vehicles traveling eastbound on 10th Street shall stop at 14th Avenue.
10. Vehicles traveling eastbound on 11th Street shall stop at 14th Avenue.
11. Vehicles traveling westbound on 8th Street shall stop at 6th Avenue.
12. Vehicles traveling northbound on 6th Avenue shall stop at 8th Street.
13. Vehicles traveling southbound on 6th Avenue shall stop at 5th Street.
14. Vehicles traveling southbound on 8th Avenue shall stop at 9th Street (Shiloh Addition).
15. Vehicles traveling southbound on 9th Avenue shall stop at 5th Street.
16. Vehicles traveling southbound on 10th Avenue shall stop at 5th Street.
17. Vehicles traveling southbound on 11th Avenue shall stop at 5th Street.
18. Vehicles traveling southbound on 12th Avenue shall stop at 5th Street.

19. Vehicles traveling southbound on 13th Avenue shall stop at 5th Street.
20. Vehicles traveling eastbound on Fire Alley shall stop at 8th Avenue.
21. Vehicles traveling southbound on 7th Avenue shall stop at 5th Street.
22. Vehicles traveling southbound on 4th Avenue shall stop at 5th Street.
23. Vehicles traveling southbound on 3rd Avenue shall stop at 5th Street.
24. Vehicles traveling southbound on W 1st Avenue shall stop at 5th Street.
25. Vehicles traveling southbound on W 2nd Avenue shall stop at 5th Street.
26. Vehicles traveling southbound on W 3rd Avenue shall stop at 5th Street.
27. Vehicles traveling northbound on Norfolk Iron Drive shall stop at 5th Street.
28. Vehicles traveling northbound on 7th Avenue shall stop at 4th Street.
29. Vehicles traveling eastbound on 4th Street shall stop at Vail Avenue.
30. Vehicles traveling eastbound on 3rd Street shall stop at Vail Avenue.

65.03 TWO-WAY STOP INTERSECTIONS. The following intersections are designated two-way stop intersections:

1. 7th Street and 9th Avenue. Vehicles approaching the intersection of 7th Street and 9th Avenue traveling northbound or southbound on 9th Avenue shall stop before entering such intersection.
2. 8th Street and 12th Avenue. Vehicles approaching the intersection of 8th Street and 12th Avenue traveling northbound or southbound on 12th Avenue shall stop before entering such intersection.
3. 6th Street and 6th Avenue. Vehicles approaching the intersection of 6th Street and 6th Avenue traveling eastbound or westbound on 6th Street shall stop before entering such intersection.
4. 6th Street and 9th Avenue. Vehicles approaching the intersection of 6th Street and 9th Avenue traveling eastbound or westbound on 6th Street shall stop before entering such intersection.
5. 5th Street and 14th Avenue/Vail Avenue. Vehicles approaching the intersection of 5th Street and 14th Avenue/Vail Avenue traveling northbound or southbound on 14th Avenue/Vail Avenue shall stop before entering such intersection.
6. 5th Street and 8th Avenue. Vehicles approaching the intersection of 5th Street and 8th Avenue traveling northbound or southbound on 8th Avenue shall stop before entering such intersection.
7. 5th Street and 6th Avenue. Vehicles approaching the intersection of 5th Street and 6th Avenue traveling northbound or southbound on 6th Avenue shall stop before entering such intersection.
8. 5th Street and 5th Avenue. Vehicles approaching the intersection of 5th Street and 5th Avenue traveling northbound or southbound on 5th Avenue shall stop before entering such intersection.

9. 4th Street and 5th Avenue. Vehicles approaching the intersection of 4th Street and 5th Avenue traveling eastbound or westbound on 4th Street shall stop before entering such intersection.
10. 4th Street and 6th Avenue. Vehicles approaching the intersection of 4th Street and 6th Avenue traveling eastbound or westbound on 4th Street shall stop before entering such intersection.
11. 3rd Street and 9th Avenue. Vehicles approaching the intersection of 3rd Street and 9th Avenue traveling northbound or southbound on 9th Avenue shall stop before entering such intersection.
12. 3rd Street and 8th Avenue. Vehicles approaching the intersection of 3rd Street and 8th Avenue traveling eastbound or westbound on 3rd Street shall stop before entering such intersection.
13. 3rd Street and 6th Avenue. Vehicles approaching the intersection of 3rd Street and 6th Avenue traveling northbound or southbound on 6th Avenue shall stop before entering such intersection.
14. 2nd Street and 5th Avenue. Vehicles approaching the intersection of 2nd Street and 5th Avenue traveling eastbound or westbound on 2nd Street shall stop before entering such intersection.
15. Vehicles traveling eastbound or westbound between 13th Avenue and 14th Avenue at Lioness Park shall stop before entering such intersections.

65.04 THREE-WAY STOP INTERSECTIONS. The following intersections are designated three-way stop intersections:

1. 7th Street and 11th Avenue. Vehicles approaching the intersection of 7th Street and 11th Avenue traveling eastbound, westbound, or southbound shall stop before entering such intersection.
2. 6th Street and 11th Avenue. Vehicles approaching the intersection of 6th Street and 11th Avenue (south of Jaycee Park) from any direction shall stop before entering such intersection.
3. 3rd Street and 11th Avenue. Vehicles approaching the intersection of 3rd Street and 11th Avenue from any direction shall stop before entering such intersection.

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

(Code of Iowa, Sec. 321.345)

1. Intersection of 5th Avenue and 3rd Street.
2. Intersection of 8th Avenue and 4th Street.
3. Intersection of 3rd Avenue and 6th Street.
4. Intersection of 4th Avenue and 6th Street.
5. Intersection of 5th Avenue and 6th Street.
6. Intersection of 10th Avenue and 6th Street.
7. Intersection of 12th Avenue and 6th Street.
8. Intersection of 4th Avenue and 7th Street.

9. Intersection of 5th Avenue and 7th Street.
10. Intersection of 6th Avenue and 7th Street.
11. Intersection of 10th Avenue and 7th Street.
12. Intersection of 12th Avenue and 7th Street.
13. Intersection of 9th Avenue and 8th Street.

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

(Code of Iowa, Sec. 321.345)

- NONE -

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

(Code of Iowa, Sec. 321.249)

- NONE -

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

65.11 OFFICIAL TRAFFIC CONTROLS. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

(Code of Iowa, Sec. 321.256)

- NONE -

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Truck Routes

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

(Code of Iowa, Sec. 321.471 and 472)

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

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

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

(Code of Iowa, Sec. 321.473 and 475)

66.04 TRUCK ROUTES. Truck route regulations are established as follows:

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

(Code of Iowa, Sec. 321.473)

- A. 1st Avenue from 5th Street northward.
- B. All of 5th Street, from the west corporate line to the east corporate line.
- C. 14th Avenue, from the south corporate line to the north corporate line.
- D. 5th Avenue, from the south corporate line to 5th Street.
- E. Emergency Truck Route is 4th Street, from 5th Avenue to 14th Avenue.
- F. Trucks are allowed to travel in all commercial and industrial zoning districts.

2. Deliveries Off Truck Route. Any motor vehicle having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the

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

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use of Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. 7th Avenue shall be northbound only from 9th Street to 10th Street.
2. The alley between 5th and 6th Avenues north of 7th Street shall be westbound only.
3. 5th Avenue, north of 7th Street shall be southbound only.
4. 7th Avenue, south of 5th Street shall be southbound only between the railroad tracks and 5th Street.

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CHAPTER 69

PARKING REGULATIONS

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

69.07 Persons with Disabilities Parking
69.08 No Parking Zones
69.09 All Night Parking Prohibited
69.10 Truck Parking Limited
69.11 Snow Removal
69.12 Snow Routes

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

69.03 PARKING.

(Code of Iowa, Sec. 321.361)

1. Angle or diagonal parking shall be permitted only in the following locations:
 - A. Upon those streets which are so marked by the painting of the curb and street to indicate that angle of parking.
 - B. 4th Avenue, on the east side from 6th Street to 7th Street.
 - C. 7th Street, on the south side from 4th Avenue to 5th Avenue.
 - D. 5th Avenue, on the west side from 6th Street to 7th Street.
 - E. 6th Street, on the north side from 4th Avenue to 5th Avenue.
2. Straight-in parking shall be permitted in the following locations:
 - A. 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.
 - B. 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.
 - C. 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.
 - D. Jaycee Park. The northerly 300 feet of 6th Street between 10th Avenue and 11th Avenue.

- E. Russelloy Iron Foundry LLC. The southerly 165 feet of 4th Street west of 11th Avenue.
 - F. Durant Municipal Electric. The southerly 150 feet of 6th Street east of 6th Avenue.
 - G. 510 5th Street and 506 6th Avenue. The westerly 220 feet of 6th Avenue north of 5th Street.
 - H. Dew Drop Inn. The easterly 150 feet of 6th Avenue north of 5th Street.
 - I. 624 5th Street. The westerly 150 feet of 7th Avenue north of 5th Street.
 - J. Liberty Trust & Savings Bank. The westerly 150 feet of 8th Avenue north of 5th Street.
 - K. Liberty Insurance Agency. The easterly 150 feet of 8th Avenue north of 5th Street.
 - L. Dr. Richard Grunder. The westerly 130 feet of 9th Avenue north of 5th Street.
 - M. Durant Chiropractic Clinic. The easterly 130 feet of 9th Avenue north of 5th Street.
 - N. Jeff's Market. The westerly 75 feet of 6th Avenue south of 5th Street.
 - O. Price Oil. The easterly 75 feet of 6th Avenue south of 5th Street.
 - P. Hein Manor. The westerly 85 feet of 9th Avenue south of 3rd Street.
3. 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 State 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 restriction of these three parking spaces shall apply only between the hours of 6:00 a.m. and 8:00 p.m. Monday through Saturday. Prior to 6:00 a.m. or after 8:00 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 provision of the City code.

(Subsection 3 – Ord. 2021-04 – Oct. 21 Supp.)

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

(Code of Iowa, Sec. 321.361)

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

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

- 1. Sale. Displaying such vehicle for sale.

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

19. 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.

20. On the north side of 7th Street, from 2nd Avenue to 125 feet east of 3rd Avenue between the hours of 7:30 a.m. and 9:30 a.m. and 3:00 p.m. to 4:00 p.m. on school days.

21. Contrary to any officially placed signs or painted markings on either the curb or the street indicating parking restrictions or prohibitions.

22. Within the radius of any cul-de-sac.

23. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than 20 feet of the width of the roadway for the free movement of vehicular traffic.

(Subsection 23 – Ord. 2021-04 – Oct. 21 Supp.)

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

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

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

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

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

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

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

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

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

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

4. Persons with Disabilities Parking Spaces. 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. Two parking spaces on 6th Street.

C. Liberty Insurance Agency. One parking space on 8th Avenue.

D. Liberty Trust & Savings Bank. One parking space on 8th Avenue.

E. Post Office. Two parking spaces on 5th Street

F. Dr. Richard Grunder. One parking space on 9th Avenue.

G. Durant Chiropractic Clinic. One parking space on 9th Avenue.

H. Durant Municipal Electric Plant. One parking space on 4th Street.

I. Durant Community School. Two parking spaces on 6th Avenue.

J. Gloria Dei Lutheran Church. Four parking spaces on 4th Avenue.

5. Persons With Disabilities Parking In Business District. The purpose of this subsection 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 Chapter 321L.5(4) of the *Code of Iowa*. The said Business District being established and defined is described as follows:

A. 5th Street, from 10th Avenue to 5th Avenue (north of right-of-way).

B. 6th Avenue, from 5th Street north to alley between 5th and 6th Street (both sides of the right-of-way).

- C. 8th Avenue, from 5th Street north to alley between 5th and 6th Street (both sides of the right-of-way).
- D. 5th Street, from the west side of 6th Avenue to 150 feet west of the intersection of 5th Avenue and 5th Street.
- E. 5th Street, from the east side of the intersection of 7th Avenue to 13th Avenue.

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

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

- 1. 5th Street, on the north and south sides from West 2nd Avenue to 5th Avenue.
- 2. 5th Street, on north and south sides from 9th Avenue to 14th Avenue.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day.

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

69.10 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section do not apply to pick-up, light delivery, or panel delivery trucks. For purposes of this section, a “truck” means any vehicle used for hauling goods or commodities which is seven feet or more in width or 19 feet or more in length, and weighing seven tons or more.

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

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

- A. 4th Street, on the north and south sides from 2nd Avenue to 14th Avenue.

- 2. Certain Locations and Circumstances.

- A. Upon any street in any area designated as R-1 single-family residential and R-2 mixed residential by the Zoning Regulations for longer than one hour. Trucks may be parked on private property of a driveway if driveway is accessible from street. No truck traffic in alleys.

- B. Upon seal-coated streets from 11th Street south to 2nd Street.

- C. 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 8th Avenue; the northerly right-of-way line of the 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 6th Avenue. The 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 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.

3. All Night.

A. Permitted. Trucks may park overnight in the industrial park on the following streets as long as the parking does not impede the industrial companies normal truck traffic for deliveries and exiting trucks.

- (1) West 1st Avenue and West 2nd Avenue.
- (2) Norfolk Drive.

B. Prohibited. No such vehicle shall be left unattended or parked upon any of the following designated streets or alleys for a period of time longer than one hour between the hours of 7:00 a.m. and 10:00 p.m. of any day.

-NONE-

(Subsection 3 – Ord. 2021-04 – Oct. 21 Supp.)

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

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

69.11 SNOW REMOVAL. 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 1 and continue through approximately April 15 of each year.

The Public Works Department will make it a priority to maintain adequate driving conditions. Depending upon the nature of the snow storm, City crews may wait until the snow event becomes lighter or stops before they begin snow removal. 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 2:00 a.m. and 6:00 a.m. on either the north or south side of 5th Street between 5th Avenue and 9th Avenue between the dates of November 15th and the following April 1st 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.
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 Mayor 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). 5th 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, 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. The Public Works Director shall notify the Mayor when snow removal or salting operations need 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 dumped 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. Private snow removal services shall not push snow across City streets or alleys from private property. All snow removal from property must stay on said property.
7. Safety. Safety is very important to any snow emergency. The public is encouraged to contact the City to report hazardous conditions or downed traffic signs or overhead power lines.
8. Summary. Notifications of Snow Emergencies shall be made by best efforts of the City through local TV news channels, City Facebook page, and Wireless Emergency Notification System. However, everyone should realize any time two inches or more is predicted, it is automatically a Snow Emergency, and no parking on streets will be enforced during snow removal.

69.12 SNOW ROUTES. The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

(Code of Iowa, Sec. 321.236[12])

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 805.6 and 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$25.00 for all violations except fire zone or obstructing access to a fire hydrant parking violations and improper use of a persons with disabilities parking permit. The fine for fire zone or obstructing access to a fire hydrant parking violations is \$200.00 and the fine for improper use of a persons with disabilities parking permit is \$100.00.

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

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

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

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

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot, or highway to the

nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

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

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

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

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

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

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period of 48 hours or more in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

(Subsection 4 – Ord. 2021-04 – Oct. 21 Supp.)

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

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

CHAPTER 71

AUTOMATED TRAFFIC ENFORCEMENT

71.01 Findings

71.02 Automated Traffic Enforcement

71.01 FINDINGS. Having been presented with information and opinions concerning Automated Traffic Enforcement (“ATE”), the Durant City Council finds as follows:

1. The use of ATE advances public interests of traffic safety and safety of emergency responders, as well as the interests of Durant taxpayers in cost effective enforcement of traffic laws;
2. The use of ATE devices which captures an image of only the front or rear license plate strikes a desirable balance between the above stated public interests and privacy interests of the motoring public; *Ordinance Amendment 2023-03 09/25/23*
3. The National Law Enforcement Telecommunications System (“Nlets”) is a cost-effective means for determining ownership of vehicles detected as traveling in violation of traffic laws within the City limits of Durant; and the technology underlying ATE self-calibrating and reliable, and its accuracy is readily verifiable.

71.02 AUTOMATED TRAFFIC ENFORCEMENT.

1. General. In accordance with is police powers, the City may deploy, erect or cause to have erected an automated traffic enforcement system for capturing images of motor vehicles that violate traffic laws by failing to obey red light traffic signals at intersections designated by the City Manager or designee or failing to obey speed regulations with in the City. The system may be managed by a private contractor that owns and operates the requisite equipment. The Police Department shall retain supervisory control over the system. The contractor shall provide photographic and/or video images of any potential violations to the Police Department to review and, in the event the Police Department determines a vehicle was operated in violation of the City’s traffic control ordinances, the Police Department shall direct that a notice of Automated Traffic Citation be issued to the vehicle owner in accordance with this Chapter 71.
2. Definitions.
 - A. Automated Traffic Citation shall mean a notice of violation generated in connection with the automated traffic enforcement system.
 - B. Automated Traffic Enforcement Contractor shall mean the company or entity, if any, with which the City of Durant contracts to provide equipment and/or services in connection with the Automated Traffic Enforcement System.
 - C. Automated Traffic Enforcement System shall mean an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic controller or Police Department employee to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control device or speed restriction.

D. Vehicle Owner shall mean the person or entity identified by the Iowa Department of Transportation, or identified by any other state vehicle registration office, as the registered owner of a vehicle detected violating a traffic law by failing to obey red light traffic signals at intersections designated by the City Manager or official designee or failing to obey speed regulations within the City. Notwithstanding the foregoing, in the event the Iowa Department of Transportation or any other state vehicle registration office identifies a person or entity as the lessee of the vehicle, that lessee shall be the vehicle owner for purposes of this Chapter 71. In the event a state registration office does not specify whether a person or entity listed on the registration for the vehicle is the owner or the lessee of the vehicles, any person or entity listed on that vehicle registration may be deemed the vehicle owner and held jointly and severally responsible for a violation of this section.

3. Vehicle Owner Subject to Civil Fine for Automated Traffic Citations.

A. If a vehicle is detected traveling at a speed above the posted limit, the vehicle owner shall be subject to a civil fine as scheduled below in sub Section 71.02(4)(B).

B. Exemptions from this 71.02 are set forth in Subsection 71.02(7), and shall not be considered violations for purposes of the Automated Traffic Enforcement System.

C. In no event will an Automated Traffic Citation be sent or reported to the Iowa Department of Transportation or similar department of any other state for the purpose of being added to the vehicle owner's driving record.

4. Notice of Automated Traffic Citations; Fines.

A. Upon a Durant Police Officer's determination that the Automated Traffic Enforcement System has detected a violation described in Sections 71.02, a notice of an Automated Traffic Citation will be mailed to the vehicle owner for each such violation recorded by the Automated Traffic Enforcement System. The Automated Traffic Enforcement Contractor shall mail the notice within 30 days after receiving information about the vehicle owner. The notice shall include the name and address of the vehicle owner; the vehicle make, if available and readily discernible; the vehicle registration number; the violation alleged; the time, date, and location of the alleged violation; the applicable fine; information as to the manner in which Automated Traffic Citation may be challenged; and that the basis of the notice is a photographic or video record generated by an Automatic Traffic Enforcement System.

B. Any violation of Subsection 71.02 above shall be subject to a civil fine as scheduled in the table below, and the fine for any violation committed in a designated construction zone (as provided by the *Code of Iowa*), shall be doubled, as scheduled below, subject in any event to the limit on fines sought in municipal infractions.

1 through 5 miles per hour ("MPH")	No Fine
6 through 10 MPH	No Fine
11 through 20 MPH	\$75.00
21 through 25 MPH	\$100.00
26 through 30 MPH	\$125.00
Over 30 MPH	\$200.00
Speed over the limit if in construction zone - doubled	

5. Challenging An Automated Traffic Citation. Within 30 days from the date appearing at the top of a notice of Automated Traffic Citation sent to the vehicle owner, the vehicle owner may either pay the fee associated with the citation or challenge the citation by submitting a written challenge to the citation or requesting that municipal infraction be filed pursuant to Iowa Code 364.22. Any such written challenge or request must be on a form specified by and available from the City as indicated on the notice, and be sent to the City according to the instructions on that form. Upon receipt of a written challenge, a Durant Police Officer shall determine whether the citation should be rescinded. Within 30 days after the City receives such a challenge, the City shall notify the vehicle owner whether the challenge to the Automated Traffic Citation is successful, in which case, the citation shall be rescinded. Otherwise, the citation shall stand. Thereafter, the City may seek voluntary payment and/or file the citation as a municipal infraction against the vehicle owner, all as set forth in Subsection 6 hereof.

6. Failure To Timely Pay Or Challenge Automated Traffic Citation. If the recipient of an Automated Traffic Citation does not wither pay the fine by the due date stated on the original citation or successfully challenge the citation as provided herein, the City may file a municipal infraction against the vehicle owner in accordance with Durant Code of Ordinances Chapter 4 Section 4.03 and 364.22 of the *Code of Iowa*, seeking judgement for applicable civil fine provided in Subsections 71.02 and 4 plus State mandated filing fee and court costs. If judgement is entered for the City in the municipal infraction proceeding, the City may, subject to applicable law, pursue enforcement of the judgement together with interest as permitted by law. Collection of that judgement may include referral to the State of Iowa Income Offset program administered by the Department of Administrative Services, State Accounting Enterprise. Notwithstanding the City's right to file a municipal infraction, the City may first seek voluntary payment of the fine by sending a written request for payment to the vehicle/owner or referring the matter to a private service agent to conduct collection in accordance with all applicable law.

7. Exemptions From Section 71.02. The following shall not be considered violations for purposes of the Automated Traffic Enforcement System.

A. The operator of the vehicle in question was issued a uniform traffic citation for the violation in question pursuant to Durant Code of Ordinance 71.02 or Chapter 321 of the *Code of Iowa*.

B. The violation occurred at any time after the vehicle in question or its state registration plates were reported to a law enforcement agency as having been stolen, provided, however, the vehicle or its plates had not been recovered by the vehicle owner at the time of the alleged violation.

C. The vehicle in question was an authorized emergency vehicle.

D. The Durant Police Officer inspecting the recorded image determines that the vehicle in question entered the intersection in order to yield the right-of-way to an emergency vehicle.

E. The Durant Police Officer inspecting the recorded image determines that the vehicle in question was lawfully participating in a funeral procession. The foregoing list of exemptions from Section 71.02 shall not be construed as limiting the defenses available to challenge an Automated Traffic Citation or defend a municipal infraction.

(Ch. 71 – Ord. 2022-01 – Jul. 22 Supp.)

CHAPTER 75

ALL-TERRAIN VEHICLES (ATVS)

75.01 Definition
75.02 Regulations

75.03 Equipment Required

75.01 DEFINITION. “All-terrain vehicle” or “ATV” means a motorized off-highway vehicle designed to travel on not less than three, and no more than six (typically, four), low-pressure or non-pneumatic tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds, and having a seat designed to be straddled by the operator and handlebars for steering control; with snow removal blade attached.

75.02 REGULATIONS. It shall be unlawful for any person to operate an ATV under the following circumstances:

1. No person shall operate an ATV in City limits except for the sole purpose driving from property to another for the purpose of removing snow from the properties from November 1 through April 1. Snow removal by ATV can be done between the said dates after a snow emergency has been declared by the City. A snow emergency may be declared when two or more inches of snow are predicted.
2. No person shall operate an ATV in the City from 11:00 p.m. to 6:30 a.m. except for the purpose of loading or unloading said vehicles from one vehicle or trailer to another.
3. ATVs can only be operated on private properties with the express permission to do so by the owner or occupant of said property.
4. On public school grounds, park property, playgrounds, recreational areas, and golf courses without express permission to do so by the proper public authority.
5. 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. ATVS may only be operated for snow removal after two or more inches have fallen.
6. In a careless, reckless, or negligent manner so as to endanger the safety of any person or property of any other person.
7. Without having such ATV registered as provided by the Iowa Statute.
8. Within the right-of-way of any public street or alley within the City unless operator has a valid driver’s license or instruction permit and accompanied by a qualified licensed driver, occupying a seat on the vehicle while performing snow removal.

75.03 EQUIPMENT REQUIRED. All ATVs 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, bypass, or similar device on said vehicle.
2. Adequate brakes in good condition, and at least one headlight and one taillight.

3. 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 or wheels.
4. A slow moving vehicle sign and bicycle flag. The flag shall be five feet from the ground level with a minimum of two feet above the highest point of the ATV.
5. Any person operating an ATV upon City streets and rights-of-way shall be a valid licensed driver of 18 years of age or older. Any person operating these vehicles shall strictly adhere to all traffic signs, signals, and all other traffic rules and regulations and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic.
6. No ATV may operate on any City street at a speed in excess of 25 miles per hour or any City streets that posted are greater than 25 miles per hour, nor shall any ATV be operated at a speed greater than is reasonable and proper for the existing weather and road conditions.

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CHAPTER 76

UTILITY TERRAIN VEHICLES (UTVS)

76.01 Purpose	76.08 Traffic Code
76.02 Definitions	76.09 Parking
76.03 General Specifications	76.10 Storage of UTVs
76.04 Operation of UTVs Permitted	76.11 Permits
76.05 Equipment	76.12 Negligence
76.06 Hours	76.13 Accident Reports
76.07 Inclement Weather	76.14 Violation and Penalty

76.01 PURPOSE. The purpose of this chapter is to regulate the operation of utility terrain vehicles (UTVs) within the City corporate limits. All persons operating UTVs must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and other pedestrians. All persons who operate or ride UTVs on streets inside the corporate limits of City do so at their own risk. The City assumes no liability for permitting any individual or group of UTVs to be operated on the streets, and all operators and owners of said UTVs agree to indemnify and hold the City harmless therefrom. The City has no liability for permitting UTVs to be operated on the streets.

76.02 DEFINITIONS. For use in this chapter, “off-road utility vehicle” or “UTV” means a motorized vehicle, with not less than four, and not more than eight, non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. UTVs can be referred to as side-by-side and recreational off-highway vehicles. The term UTV does not include golf carts, all-terrain vehicles, motorbikes, or snowmobiles, or vehicles specifically designed to carry a disabled person, implement of husbandry as defined in Section 321.1(32) of the *Code of Iowa*.

76.03 GENERAL SPECIFICATIONS. All UTVs permitted by the City are required to be registered with the State of Iowa in the applicable County of the owner’s residence, and the UTV shall meet all requirements of the *Code of Iowa* and its applicable policies and procedures by any related State agencies.

76.04 OPERATION OF UTVS PERMITTED. UTVS may be operated upon the streets of the City by persons who are 18 years of age or older. All owners or operators must obtain a City permit from the Police Department and possess a valid driver’s license. While operated on a City street, the number of passengers permitted on a UTV shall not exceed the number of seats for intended passengers. Children may be passengers on UTVs if guidelines for child restraint laws in Iowa are met and followed. Operators must have proof of insurance on them with their driver’s license while operating a UTV on City streets. All persons driving or riding in a UTV shall have seat belts on.

76.05 EQUIPMENT. UTVs operating on City streets shall be equipped with at least the following equipment:

1. A slow moving vehicle sign and a bicycle safety flag, whereby the flag shall be a minimum five feet from the ground level and extend a minimum two feet above the highest point of the UTV.

2. Tail light, two head lights, muffler, turn signals, brakes to stop and hold vehicle in position, seat belts or harness system. All child restraint laws and guidelines must be met and followed.
3. Steering wheel and no straddled seats.
4. Seating for minimum of two occupants on non-straddled seats.
5. A roll bar or similar device.
6. Not less than four, and not more than eight, non-highway tires, low pressure tires, or rubberized tracks
7. No modifications to muffler systems allowed.

76.06 HOURS. UTVs may be operated on City streets only from one hour before sunrise until 11:00 p.m.

76.07 INCLEMENT WEATHER. UTVS are prohibited on City streets during inclement weather when visibility is reduced or impaired by rain, snow, sleet, smoke, fog, or other conditions or at any other time there is insufficient light to clearly see a person or vehicle on a roadway at a distance of 500 feet.

76.08 TRAFFIC CODE. Any person operating a UTV on any public street or alley for any purpose shall strictly adhere to all traffic signs and signals and other traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic. No person shall leave a UTV unattended on any public property while the motor is running or keys are in ignition switch.

1. No UTV shall be operated at a speed in excess of the legal speed limit, per Section 321.285 of the *Code of Iowa*, nor shall any UTV be operated at a speed greater than is reasonable and proper for the existing street conditions.
2. All UTVS must cross at an approximate 90 degree angle to the direction of the street.
3. In the City, 5th Street is also HWY 927 (Historic HWY 6). For the purposes of this chapter it shall be referred to as 5th Street and shall include all areas from the west corporate City line to the east corporate City line.
4. No UTVS shall operate or drive on railroad property.
5. No UTV shall be operated upon 5th Street.
6. The following intersections will not be used for crossing 5th Street:

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(Subsection 6 – Ord. 2021-06 – Jan. 22 Supp.)

76.09 PARKING. UTVs shall adhere to the same parking laws as automobiles (See Chapter 69 of this Code of Ordinances). There will be no UTV parking on 5th Street. Owners or operators of UTVs shall utilize their own driveways for parking at their properties.

76.10 STORAGE OF UTVS. UTVs shall be in an enclosed garage or shed. No parking overnight in yards or streets. If the owner or operator does not have an enclosed space, they will follow the same criteria as the recreational vehicle storage requirements in Section 165.21 of this Code of Ordinances.

76.11 PERMITS. No person shall operate a UTV on any public street or alley for any purpose unless the UTV has passed a safety inspection by the Police Department and the operator possesses a City permit to operate a UTV issued by the Police Chief. Any non-resident of the City that would like the privilege of operating a UTV within City limits will need to register for a permit.

1. Owners may apply for a permit from the Police Department on forms provided by the City.
2. The Police Chief shall not issue a permit until the owner or operator has provided the following:
 - A. Evidence that the owner possess a valid driver's license and is at least 18 years of age.
 - B. Proof the owner or operator has liability insurance (minimum limit of \$300,000.00 coverage) covering operation of UTVs on City streets.
3. Permit and proof of insurance must be kept in the UTV at all times.
4. Permits expire annually on December 31, regardless of date of issue.
5. The permit may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit, has abused the privilege of being a permit holder, or has violated an applicable State, County, or City law. There will be no refund of the permit fee. The suspension or revocation may be appealed to the City Council within 10 days of the date of mailing of the written notice of suspension or revocation of the permit. The owner shall request the appeal in writing and submit the same to the City Clerk within the prescribed time period. There will be no tolerance of UTVs speeding and driving recklessly on City streets or alleys.
6. No UTVs are permitted on any sidewalks in the City limits. No UTVs are permitted in City parks unless prior approval from Council has been given at a prior Council meeting before a City-wide event. This shall not apply to City personnel.

(Section 76.11 – Ord. 2022-04 – Jul. 22 Supp.)

76.12 NEGLIGENCE. The owner or operator of a UTV are liable for any injury or damage occasioned by the negligent operation of the UTV. The owner of a UTV shall be liable for any such injury or damage by the operator of the UTV at the time the injury or damage occurred or if the operator had the owner's consent to operate the UTV at the time the injury or damage occurred. The City shall not have any liability for any injury or damage to person or property caused by any UTV, whether or not permitted by the City or operated within the City limits. Any operator or owner of any UTV operated or permitted within the City acknowledges that they are solely and individually responsible for any injury or damage to person or property, whether passenger, operator, owner, automobile operator, or passenger and that by accepting a permit by the City, they agree to indemnify and hold harmless the City therein from any claims of injury or damage to persons or property under this Code of Ordinances.

76.13 ACCIDENT REPORTS. Either the operator or someone acting for the operator shall immediately notify the Police Department or other law enforcement via dialing 9-1-1 whenever a UTV is involved in an accident resulting in injury or death or property damage amounting to \$1,000.00 or more, and shall file an accident report within 48 hours in accordance with State law.

76.14 VIOLATION AND PENALTY.

1. A person guilty of violating the provisions herein shall be guilty of a misdemeanor and shall be subject to a minimum fine of \$100.00 plus applicable court costs and criminal surcharge and may be subject to revocation of the City permit for a period of six months.
2. Any person guilty of violating this chapter two times shall be subject to a \$250.00 fine and may be subject to permanent revocation of the City permit and revocation of privileges to operate any UTV within City limits.
3. Persons violating this chapter may also be prosecuted and subject to penalties set out in Section 321(I).36 of the *Code of Iowa*.

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CHAPTER 77

SNOWMOBILES

77.01 Definitions
77.02 Regulations

77.03 Equipment Required

77.01 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.

77.02 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 or 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 is 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 11:00 p.m. to 6:30 a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

77.03 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. No person shall use a muffler cut-out, bypass, or similar device on said vehicle.
2. Adequate brakes in good condition, and at least one headlight and one taillight.

3. 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.

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CHAPTER 78

GOLF CARTS

78.01 Purpose	78.08 Parking
78.02 Definitions	78.09 Storage
78.03 Operation of Golf Carts Permitted	78.10 Permits
78.04 Equipment	78.11 Negligence
78.05 Hours	78.12 Accident Reports
78.06 Inclement Weather	78.13 Violation and Penalty
78.07 Traffic Code	78.14 Review

78.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts within the City corporate limits on certain City streets as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter applies whenever a golf cart is operated on any street or alley of the City. All persons operating golf carts must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and other pedestrians. All persons who operate or ride golf carts on streets inside the corporate limits of the City do so at their own risk. The City assumes no liability for permitting any individual or group of golf carts to be operated on the streets, and all operators and owners of said golf carts agree to indemnify and hold the City harmless therefrom.

78.02 DEFINITIONS. For use in this chapter, “golf cart” means a three- or four-wheeled recreational vehicle generally used for transportation of persons in the sport of golf, and has a gasoline displacement of less than 800 cubic centimeters or is electrically powered. No golf cart may be modified from factory specifications except to comply with the requirements set forth in this chapter.

78.03 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons who are 18 years of age or older. All owners or operators must obtain a City permit from the Police Department and possession a valid driver’s license. While operated on a City street, the number of passengers permitted on a golf cart shall not exceed the number of seats belts for intended passengers. Children may be passengers on golf carts if guidelines for child restraint laws in Iowa are met and followed. Operators must have proof of insurance on them with their driver’s license while operating the golf carts on City streets. All persons driving or riding in golf carts shall have seat belts on. Any non-resident of the City that would like the privilege of operating a golf cart within City limits shall register for a permit.

78.04 EQUIPMENT. Golf carts operating on City streets shall be equipped with at least the following equipment:

1. A slow moving vehicle sign and a bicycle safety flag, whereby the flag shall be a minimum five feet from the ground level and extend a minimum two feet above the highest point of the golf cart.
2. Golf carts shall be equipped with brake lights, headlights, brakes to stop and hold vehicle in position, seat belts or harness system. In any golf carts that are not equipped with turn signals, operators shall use hand signals. Any golf carts operating in dark hours, shall be equipped with turn signals. The use of hand signals shall only be accepted during daylight hours. Children may be passengers on golf carts if guidelines

for child restraint laws in Iowa are met and followed. ***Ord. Amendment #2023-04 11/13/2023***

3. Steering wheel. No straddle seats ***Ord. Amendment #2023-04 11/13/2023***
4. Rearview mirror on driver's side.
5. No towing of anything, or pulling by human person, behind the golf cart allowed.
6. No modifications to the muffler system shall be allowed.
7. **78.05 HOURS.** Golf carts may be operated on City streets only one hour before sunrise until 11:00 p.m Golf carts used for snowplowing, equipped with blade, can be used for plowing only, on private property, from November 1 to April 1. ***Ord. Amendment #2023-04 11/13/2023***

78.06 INCLEMENT WEATHER. Golf carts are prohibited on City streets during inclement weather when visibility is reduced or impaired by rain, snow, sleet, smoke, fog, or other conditions, or at any other time there is insufficient light to clearly see a person or vehicle on a roadway at a distance of 500 feet.

78.07 TRAFFIC CODE.

1. All golf cart operators shall come to a complete stop at all stop signs.
2. Any person operating a golf cart on any public street or alley for any purpose shall strictly adhere to all traffic signs and signals and other traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic.
3. No golf carts shall be operated at a speed in excess of the lesser of 25 miles per hour or the posted speed. Nor shall any golf carts be modified to operate at a greater speed than 25 miles per hour. No golf cart shall be operated at a speed greater than is reasonable and proper for the existing street conditions.
4. All golf carts must cross at an approximate 90 degree angle to the direction of the street.
5. No person shall leave a golf cart unattended on any public property with motor running or key in ignition.
6. No golf cart shall be operated in or on any park, playground, sidewalk, recreational bike or walking path, or upon any public property except with permission of the governing body thereof. Golf carts shall not be operated upon the portion of street right-of-way between the curb and edge of the street paving or other surface and the sidewalk generally referred to as the "parking."
7. In the City 5th Street is also Highway 927 (Historic Highway 6). For the purposes of this chapter, it shall be referred to as 5th Street and include all areas from the west corporate City line to the east corporate City line.
8. No golf carts shall operate or drive on railroad property.
9. No golf carts shall be operated upon 5th Street.

10. No golf carts shall be operated on 1st Avenue (Yankee Avenue).
11. No golf carts shall be operated on Vail Ave (14th Ave South of 5th Street).
12. The following intersections will be NOT be used for crossing 5th Street:
 - A. At 14th Ave (Vail Ave) south of 5th Street.
 - B. (Repealed by Ordinance No. 2021-05 – Jan. 22 Supp.)
 - C. (Repealed by Ordinance No. 2021-05 – Jan. 22 Supp.)

(Subsections 7-12 – Ord. 2021-04 – Oct. 21 Supp.)

78.08 PARKING. Golf carts shall adhere to the same parking laws as automobiles. There will be no parking on 5th Street. Owners or operators shall utilize their own driveways for parking at their properties. No golf carts shall be parked upon any public sidewalk.

(Ord. 2021-04 – Oct. 21 Supp.)

78.09 STORAGE. Golf carts shall be in an enclosed garage or shed. No parking overnight in yards or streets. If the owner or operator does not have an enclosed space, they will follow the same criteria as the recreational vehicle Section 165.21 of this Code of Ordinances.

(Ord. 2021-04 – Oct. 21 Supp.)

78.10 PERMITS. No person shall operate a golf cart on any public street or alley, for any purpose unless the golf cart has passed a safety inspection by the Police Department and the operator possesses a City permit to operate a golf cart, issued by the Chief of Police or designated officer. Any non-resident of the City that would like the privilege of operating a golf cart within City limits will need to register for a permit.

1. Owners may apply for a permit from the Police Department on forms provided by the City.
2. The Police Chief shall not issue a permit until the owner or operator has provided the following:
 - A. Evidence that the owner possesses a valid driver's license and is at least 18 years of age.
 - B. Proof the owner or operator has liability insurance (minimum limit of \$300,000 coverage) covering operation of golf carts on City streets.
3. Permit and proof of insurance must be kept in the golf carts at all times.
4. The annual permit fee, if any, shall be set by resolution by Council.

Ord. Amendment #2023-04 11/13/2023

5. Permits expire annually on December 31, regardless of date of issue.
6. The permit may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit, has abused the privilege of being a permit holder or has violated an applicable State, County, or City law. There will be no refund of the permit fee. The suspension or revocation may be appealed to the Council within 10 days of the date of mailing of the written notice of suspension or revocation of the permit. The owner shall request the appeal in writing and submit the same to the Clerk within the prescribed time period. There will no tolerance of golf carts speeding and driving recklessly on City streets or alleys.

7. No golf carts are permitted on any sidewalks in the City limits. No golf carts are permitted in City parks unless prior approval from Council has been given at a prior Council meeting before a City wide event. All City personnel shall be exempt.

(Section 78.10 – Ord. 2021-04 – Oct. 21 Supp.)

78.11 NEGLIGENCE. The owner and operator of a golf carts are liable for any injury or damage occasioned by the negligent operation of the golf cart. The owner of a golf cart shall be liable for any such injury or damage by the operator of the golf cart at the time the injury or damage occurred or if the operator had the owner's consent to operate the golf cart at the time the injury or damage occurred. The City shall not have any liability for any injury or damage to person or property caused by any golf carts whether or not permitted by the City or operated within the City limits. Any operator or owner of any golf cart operated or permitted within the City acknowledges that they are solely and individually responsible for any injury or damage to person or property whether passenger, operator, owner, automobile operator or passenger and that by accepting a permit by the City, they agree to indemnify and hold harmless the City therein from any claims of injury or damage to persons or property under this chapter.

(Ord. 2021-04 – Oct. 21 Supp.)

78.12 ACCIDENT REPORTS. Either the operator or someone acting for the operator, shall immediately notify the Police Department or other law enforcement via dialing 911 whenever a golf cart is involved in an accident resulting in injury, or death, or property damage amounting to \$1,000.00 or more and shall file an accident report within 48 hours in accordance with State law.

(Ord. 2021-04 – Oct. 21 Supp.)

78.13 VIOLATION AND PENALTY.

1. A person guilty of violating the provisions herein shall be guilty of a misdemeanor and shall be subject to a minimum fine of \$100.00 fine plus applicable courts and criminal surcharge and may be subject to revocation of the City permit for a period of six months.

2. Any person guilty of violating this ordinance two times shall be subject to a \$250.00 fine and may be subject to permanent revocation of the City permit and revocation of privileges to operate any golf carts within City limits.

3. Persons violating this chapter may also be prosecute and subject to penalties set out in Section 321(I).36 of the Code of Iowa.

(Section 78.13 – Ord. 2021-04 – Oct. 21 Supp.)

78.14 REVIEW. The Council shall reserve the right to an annual review whenever it deems good cause exists for a review of the Code chapter. If no such amendment or repeal occurs, then the ordinances shall continue as stated.

(Ord. 2021-04 – Oct. 21 Supp.)

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions	80.06 Disposal of Abandoned Vehicles
80.02 Authority to Take Possession of Abandoned Vehicles	80.07 Disposal of Totally Inoperable Vehicles
80.03 Notice by Mail	80.08 Proceeds from Sales
80.04 Notification in Newspaper	80.09 Duties of Demolisher
80.05 Fees for Impoundment	

80.01 DEFINITIONS. For use in this chapter, the following terms are defined:
(*Code of Iowa, Sec. 321.89[1] and Sec. 321.90*)

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

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

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

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 20 days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within 10 days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim, and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

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

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

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

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

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

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

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

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

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

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

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

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe
90.02 Superintendent's Duties	90.13 Failure to Maintain
90.03 Mandatory Connections	90.14 Curb Valve
90.04 Abandoned Connections	90.15 Interior Valve
90.05 Permit	90.16 Inspection and Approval
90.06 Fee for Permit and Connection Charge	90.17 Completion by the City
90.07 Compliance with Plumbing Code	90.18 Shutting Off Water Supply
90.08 Plumber Required	90.19 Operation of Curb Valve and Hydrants
90.09 Excavations	90.20 Connections Before Permanent Improvements
90.10 Tapping Mains	90.21 Non-Liability Of City
90.11 Installation of Water Service Pipe	90.22 Backflow Prevention Program

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Corporation valve" means the valve located at the public water main, buried underground. A corporation valve is brass and is used to open and close off water service on a more permanent basis.
3. "Curb stop valve" means the valve 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.
4. "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.
5. "Irrigation meter" means a meter used to measure outside water usage that does not enter the sanitary sewer system.
6. "Superintendent" means the Public Works Director of the City or any duly authorized assistant, agent, or representative.
7. "Water main" means a water supply pipe provided for public or community use.
8. "Water service pipe" means the pipe from the water main to the building served.
9. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

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

emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. All residences, commercial establishments, industrial establishments, or other structures or establishments located within the City limits intended or used for human habitation, occupancy, or use shall be connected to the public water system.

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

90.05 PERMIT. Before any person, 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 Superintendent shall issue the permit, bearing the Clerk's signature and stating the date of issuance, if the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid. Work under this permit must be completed within six months after it is issued. The City may, at any time, revoke the permit for any violation of this chapter and require that the work be stopped.

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

(Code of Iowa, Sec. 384.84)

1. Five cents per square foot for residential development
2. Seven and one-half cents per square foot for commercial development
3. One cent per square foot for industrial development

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

90.08 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 Superintendent.

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

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

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

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

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

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

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property. 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 30 days after presentation to the consumer. If said bill is not paid within 30 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 30 days after presentation to be collected in the manner of property taxes.

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

90.14 CURB VALVE. The plumber who makes the connection to the municipal water system shall install a service shut-off valve of the inverted key type on the water service pipe within the City right-of-way, and not in the path of any existing or future sidewalk. The shut-off valve must have a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a curb box of a pattern approved by the City.

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

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

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

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

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

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

90.20 CONNECTIONS BEFORE PERMANENT IMPROVEMENTS. When the Council has ordered a street to be permanently improved, a plat shall be filed at the office of the Clerk showing the lots and the names of the property owners in respect to the connection 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 Superintendent, any property found to not have a three-quarter-inch copper service line will be required to replace said line in the amount of time allotted by the Council in the form of a resolution. Any time prior to the time set for completion, any property owner may appear before the 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 Council, but not to exceed 20 days, the 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. New construction may use up to one-inch copper pipe. Existing properties replacing connection pipes may use three-quarter-inch copper pipe.

90.21 NON-LIABILITY OF CITY. The City 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.

90.22 BACKFLOW PREVENTION PROGRAM. The City adopts the backflow prevention program as contained in the *Uniform Plumbing Code (2018 Edition)*.

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CHAPTER 91

WATER METERS

91.01 Purpose	91.07 Meter Repairs
91.02 Water Use Metered	91.08 Right of Entry
91.03 Fire Sprinkler Systems; Exception	91.09 Meter Installation Fee
91.04 Location of Meters	91.10 Meters and Meter Accuracy
91.05 Meter Setting	91.11 Irrigation Meters
91.06 Meter Costs	91.12 Water Bypass Valves

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

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

91.03 FIRE SPRINKLER SYSTEMS; EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open. If for residential sprinkler use, these homes shall not tap into the line for domestic use.

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

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a shut-off 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 Superintendent and shall be of a design and construction approved by the Superintendent. In case of meters one inch or larger, the standard bypass shall be installed by the customer to meet A.W.W.A. specifications and approval by the Superintendent.

91.06 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.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.

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

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

91.10 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. 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 shall 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. *(Ord. 2022-02 – Jul. 22 Supp.)*

91.11 IRRIGATION METERS. The Council determines that it is in the best interest of customer fairness and public policy to establish an irrigation meter policy.

1. All new construction 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 this Code of Ordinances. New construction shall be charged for two meters on the building permit.
2. 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 Superintendent. Installation of the irrigation meter must be inspected by the City Public Works Department. City staff has the authority to inspect the meter periodically to ensure that it is operating properly and legally.
3. Permanent irrigation meters are required in all new residential construction. Permanent irrigation meters can be purchased from the City for existing home installation. Permanent irrigation meters are read monthly and customers are charged only for the outside water usage.
4. Underground irrigation systems require approved backflow prevention devices and annual testing.

(Section 91.11 – Ord. 2022-02 – Jul. 22 Supp.)

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

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CHAPTER 92

WATER RATES

92.01 Service Charges
 92.02 Rates For Service
 92.03 Billing for Water Service
 92.04 Service Discontinued
 92.05 Lien for Nonpayment

92.06 Lien Exemption
 92.07 Lien Notice
 92.08 Customer Deposits
 92.09 Snowbird Policy

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

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City effective July 1, 2021:

(Code of Iowa, Sec. 384.84)[†]

Gallons Used Per Month Household or Business	Effective Date and Rate						
	7/1/2021	7/1/2022	7/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
0 to 1,000 Minimum Bill, plus tax	\$19.30	\$19.68	\$20.08	\$20.48	\$20.89	\$21.31	\$21.73
All over 1,000 per gallon	\$0.00330	\$0.00337	\$0.00344	\$0.00351	\$0.00358	\$0.00365	\$0.00372

Annually, beginning July 1, 2021, the base rate and usage shall increase by two percent per year.

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at City Hall by the twentieth day of the each month. When the twentieth falls on Saturday, Sunday, or a holiday, payment shall be accepted on the next business day without penalty.

[†] **EDITOR'S NOTE:** *Code of Iowa* 384.84(1) rates must be established by ordinance of the Council or by resolution of the trustees, published in the same manner as an ordinance.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time 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 \$25.00 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 92.04 below.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The City shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested, the Clerk shall conduct an informal 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 Clerk is final.
4. Disconnect Notice. A disconnect notice shall be posted 24 hours before the day of the shut-off date, at the property, and a fee of \$25.00 shall 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. The 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 disconnected service, with fees assessed. Property owners shall be notified to fix curb stops.
5. Fees. In addition to the rates or charges then due before such service is restored, if service is discontinued for nonpayment of fees and charges, non-compliance with payment arrangement, or for the violation of any City ordinance, a fee of \$50.00 shall be paid to the City by 3:00 p.m. of the shut-off date, or a fee of \$100.00 shall be paid to the City if after 3:00 p.m. of shut-off date.

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

(Code of Iowa, Sec. 384.84)

92.06 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. **Water Service Exemption.** The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, stormwater drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.
4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

92.07 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall

also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.08 CUSTOMER DEPOSITS. All rental for residential, commercial, and industrial areas requesting water service shall, at the time of application, pay to the City 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 Clerk shall secure a final reading of the meter from the Public Works department. 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 12 consecutive months from the time water service commenced and the customer's account has not been delinquent.

(Code of Iowa, Sec. 384.84)

92.09 SNOWBIRD POLICY. Residents who will be vacationing from their homes for 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 the monthly bill upon return of the homeowner. If a resident requests the shut-off at the curb, no minimum bill shall be due.

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CHAPTER 93

WATER CONSERVATION

93.01 Water Shortages
93.02 Conditions

93.03 Violation

93.01 WATER SHORTAGE. 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.

93.02 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 or wading pools, or the refilling of swimming 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.

93.03 VIOLATION. 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 Council. The 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.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City

95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties
95.10 Deviations
95.11 Disclaimer

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

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

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

wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. “Properly shredded garbage” means 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 inch in any dimension.

13. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

14. “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.

15. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

16. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

17. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.

18. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.

19. “Sewer” means a pipe or conduit for carrying sewage.

20. “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.

21. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

22. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

23. “Superintendent” means the Public Works Director of the City or any authorized deputy, agent, or representative.

24. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.

25. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:
(Code of Iowa, Sec. 372.13[4])

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

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

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 150 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(567 IAC 69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council. The 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 and 3])

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

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

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

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

95.10 DEVIATIONS. Any deviation from prescribed procedures and materials set out in the Sanitary Sewer chapters must be approved by the Superintendent or Council before being implemented.

95.11 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.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee and Connection Charge

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. There shall be three classes of building sewer permits: (i) residential service, (ii) commercial service, and (iii) 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 months after the issuance of the permit, except that when a property owner make sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application for a permit application shall pay all the required permit fees, including the connection fees, as follows:

1. 10 cents per square foot for residential development
2. One and one-half cents per square foot for commercial development
3. Two cents per square foot for industrial development

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

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

96.05 CONNECTION REQUIREMENTS. The installation of the building sewer and its connections to the public sewer shall conform to the requirements of the *Uniform Plumbing Code*, the laws of the State, and other applicable rules and regulations of the City.

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

dwelling units. When required, such interceptors shall be installed in accordance with the following:

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

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

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. 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.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the

Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Stormwater
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

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

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

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

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

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

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than 150°F (65°C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C), 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 inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet

the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

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

10. Unusual Wastes. Materials that exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials, or substances that 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 that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

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

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

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

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

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

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

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

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

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

(567 IAC 69.1[3])

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

(567 IAC 69.1[3 and 4])

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

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

(567 IAC 69.1[3])

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

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

1. Exceptions. Single-family dwellings and buildings or structures accessory thereto, existing and connected to an approved private sewage disposal system prior to the time of connection of the premises to the public sewer, shall be permitted, when no hazard, nuisance, or unsanitary condition is evidenced and written permission has been obtained from the authority having jurisdiction, to remain connected to such properly

maintained private sewage disposal system when there is insufficient grade or fail to permit drainage to the sewer by gravity.

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

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

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CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
 99.02 Special Rates
 99.03 Private Water Systems

99.04 Payment of Bills
 99.05 Lien for Nonpayment
 99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

(Code of Iowa, Sec. 384.84) [†]

Gallons Used Per Month Household or Business	Effective Date and Rate						
	7/1/2021	7/1/2022	7/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
0 to 1,000 Minimum Bill, plus tax	\$46.92	\$47.86	\$48.82	\$49.79	\$50.79	\$51.80	\$52.84
All over 1,000 per gallon	\$0.008619	\$0.008791	\$0.008967	\$0.009147	\$0.009329	\$0.009516	\$0.009706

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

Annually, beginning July 1, 2021, the base rate and usage shall increase by two percent per year.

99.02 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.03 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.04 if the combined service account

[†] **EDITOR'S NOTE:** *Code of Iowa 384.84(1)* rates must be established by ordinance of the Council or by resolution of the trustees, published in the same manner as an ordinance.

becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

99.05 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.09 Waste Storage Containers
105.04 Health and Fire Hazard	105.10 Prohibited Practices
105.05 Open Burning Restricted	105.11 Sanitary Disposal Project Designated
105.06 Separation of Yard Waste Required	105.12 City Yard Waste Site

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(567 IAC 100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(567 IAC 20.2)
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

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

(567 IAC 100.2)

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

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

(567 IAC 20.2)

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

(567 IAC 100.2)

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

(567 IAC 100.2)

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

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

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

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

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

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

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

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

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

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

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

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

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

(567 IAC 100.2)

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

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

(Code of Iowa, Ch. 657)

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

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

(567 IAC 23.2 and 100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(567 IAC 23.2[3]"a")

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(567 IAC 23.2[3]"b")

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(567 IAC 23.2[3]"c")

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing,

grubbing, and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste. It shall be unlawful in the City 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 9:00 a.m. and 7:00 p.m. from March 1 to May 31 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 City streets, curbs and gutters, boulevard, rights-of-way, sidewalks, or any other City property or rights-of-way. Burning garbage is prohibited.

(567 IAC 23.2[3]"d")

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

(567 IAC 23.2[3]"e")

A. The use of fire rings and self-contained outdoor fireplaces for recreational uses shall not be governed by this chapter.

B. The burning of common cooking fuel as natural gas, charcoal, or wood being used for cooking of foods for human consumption shall be permitted.

C. The use of barbecue grills, smokers, or outdoor fryers used solely for preparation of food for human consumption shall be permitted.

D. It shall be unlawful to deposit or leave any refuse or material such as ashes 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. This shall include outdoor fire ring refuse and outdoor fire place refuse.

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

(567 IAC 23.2[3]"g")

7. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(567 IAC 23.2[3]"j")

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(567 IAC 23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection.

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

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

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

(567 IAC 100.2)

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

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:

- A. Residential. Residential waste and recyclable items shall be disposed of in the 65-gallon or 95-gallon containers provided by the City's solid waste contractor.

- B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in the 65-gallon or 95-gallon containers provided by the City's solid waste contractor (as required above) is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place, by 6:00 a.m., by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the County are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

105.12 CITY YARD WASTE SITE. The designated City yard waste site will be governed by all signage at said facility as well as the following restrictions:

1. City yard waste site is for City residents only. *No commercial waste.*
2. Disposal of leaves, yard brush, and grass clippings are the only allowed materials. *Tree branches must smaller than eight (8) inches in diameter.*
3. Disposal of items other than grass clippings, yard brush, or leaves at the City compost site may be cited for littering under this chapter or any other applicable City ordinance.
4. Any non-resident of the City depositing any materials at the City yard waste site may also be subject to citation for littering under this chapter or any other applicable City ordinance. *This includes any commercial company with tree debris.*
5. A minimum fine of \$150.00 for disposal of items that are not yard waste is posted at the site.

(Section 105.12 – Ord. 2022-03 – Jul. 22 Supp.)

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Ordinance Amendment 2002-05 approved and adopted by City Council 12/19/2022

CHAPTER 106

COLLECTION OF SOLID WASTE

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

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

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

(567 IAC 104.9)

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

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

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

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing, or disposing of solid waste for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied, or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks, or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449 [Iowa 1970])

1. 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 be 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*.
2. The refuse rate shall be collected by the City for its services collecting garbage and rubbish, and the following mandatory fees are hereby established:
 - A. Residence and Commercial Rate. For each resident with pickup, \$19.00 per month for one weekly garbage collection of a 65-gallon refuse cart, or \$20.50 per month for one weekly garbage collection of a 95-gallon refuse cart each week.
 - B. Customers may request an additional 65-gallon refuse cart. An additional \$3.00 per month shall be collected for such additional refuse cart.
3. Each landlord shall require each residential tenant to obtain and utilize a refuse cart of appropriate size for each dwelling unit.
4. The City shall collect the refuse collection rate provided for in this section for each dwelling unit which is being provided any water or sewer service by the City.
 - A. It shall not be a defense to being billed for refuse to maintain a dwelling unit is unoccupied.
 - B. However, in their sole and absolute discretion, the 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.
 - C. For any portion of any month where such dwelling unit is occupied, the entire appropriate refuse collection fee for the month shall be collected for such dwelling unit.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.15 Franchise Implementation
110.02 Non-Exclusive Franchise	110.16 Collection of Franchise Fees
110.03 Street Excavation	110.17 Annexation
110.04 Tariff	110.18 Customer Identification
110.05 Responsibility For Excavation	110.19 Remittance of Franchise Fees
110.06 Vacating of Property	110.20 Franchise Fee Administration
110.07 Relocation of Existing Facilities	110.21 Expenses Incurred by Company
110.08 Relocation For Development	110.22 Ordinance Modification or Repeal
110.09 City Held Harmless	110.23 Right-Of-Way
110.10 Confidentiality	110.24 Termination of Franchise
110.11 Applicable Regulations	110.25 Adjudication of Ordinance
110.12 Supply of Gas	110.26 Procedures of Ordinance
110.13 Franchise Agreement	110.27 Effective Date
110.14 Franchise Fee Exemptions	

110.01 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 of the Company. The term of this franchise shall be 25 years beginning from and after the effective date of the ordinance codified in this chapter.[†] Either the Company or the City may, not less than 90 nor more than 180 days prior to the tenth and fifteenth anniversary of the effective date of the ordinance codified in this chapter, 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 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.

110.02 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.

110.03 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 to not 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.

110.04 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

[†] **EDITOR’S NOTE:** Ordinance No. SO 2011-2, adopting a natural gas franchise for the City, was passed and adopted on May 23, 2011.

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.

110.05 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 immediately previous existing condition or to a condition required for the City to comply with City, State, and federal rules, regulations, or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

110.06 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 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.

110.07 RELOCATION OF EXISTING FACILITIES. 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 10 years.

110.08 RELOCATION FOR DEVELOPMENT. Pursuant to relocation of Company facilities as may be required by this chapter, 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 of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

110.09 CITY HELD HARMLESS. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, cost, or expenses, on account of injury or damage to any person or property, to the extent cause 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.

110.10 CONFIDENTIALITY. 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 the 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 in order for the Company to seek an injunction or other appropriate action to protect the confidentiality of the information. The Company shall cooperate with all requests of City to identify that portion of the information that is not to be disclosed. The City shall not be liable for the disclosure of any information which the Company did not indicate to be confidential.

110.11 APPLICABLE REGULATIONS. The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.12 SUPPLY OF GAS. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent, and in accordance, with the applicable regulations of the Iowa Utilities Board or its successors and Iowa Law.

110.13 FRANCHISE AGREEMENT. A franchise fee is imposed upon, and shall be collected from, the natural gas customers of MidAmerican Energy Company receiving service pursuant to the tariff and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, derived from the sale of natural gas and distribution service pursuant to the tariff. City imposes the franchise fee upon the following revenue classes:

REVENUE CLASS	FRANCHISE FEE
Residential Customers	Five Percent
Commercial Customers	Five Percent
Industrial Customers	Five Percent
Public Authority Customers	Five Percent
Distribution (Transportation) Customers	Five Percent

110.14 FRANCHISE FEE EXEMPTIONS. The City may, as allowed by Iowa law, exempt certain types or classes of sales from imposition of the franchise fee, or modify, decrease, or eliminate the franchise fee. The City does therefore exempt the following customer classes or customer groups franchise fees:

Customer Classes Initially Exempted By the City

The City reserves the right to cancel any or all the franchise fee exemptions and also reserves the right to grant exemptions to additional customers or customer classes in compliance with Iowa law and this chapter.

110.15 FRANCHISE IMPLEMENTATION. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting certain types or classes of customers, increasing, decreasing, modifying, or eliminating the franchise fee shall become effective, and billing reflecting the change shall commence, on an agreed upon date which is not less than 60 days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the City Council.

110.16 COLLECTION OF FRANCHISE FEES. The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to 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.

110.17 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.

110.18 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.

110.19 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:

1. January, February, and March
2. April, May, and June
3. July, August, and September
4. 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 alteration in the calendar quarters or any other changes in the remittance periods.

110.20 FRANCHISE FEE ADMINISTRATION. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agree it shall, if required by the Company, reimburse the Company for any initial or ongoing cost 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.

110.21 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.

110.22 ORDINANCE MODIFICATION OR REPEAL.

1. The obligation to collect and remit the fee imposed by the ordinance codified in this chapter is modified or repealed if:

A. 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 chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

B. 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

C. Legislation is enacted by the Iowa General Assembly, or the Supreme Court of Iowa issues a final ruling, regarding franchise fee or the Iowa Utilities Board issues a final non-appealable 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 chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After final franchise fee action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if, in its sole opinion, it believes it is required to do so in order to comply with revised legal requirements.

2. The other provisions of this chapter to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee, effective as the date specified below, with no liability therefore under

each of any of the following circumstances as determined to exist in the sole discretion of Company:

- A. 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.
- B. 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.
- C. 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.

110.23 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.

110.24 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.

110.25 ADJUDICATION OF ORDINANCE. If any section, provision, or part of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance codified in this chapter as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

110.26 PROCEDURES OF ORDINANCE. The ordinance codified in this chapter and the rights and privileges herein granted shall become affective 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 the ordinance codified in this chapter within 10 days of its final passage. The Company shall, within 30 days after the City Council approval of the ordinance codified in this chapter, file in the office of the City Clerk, its acceptance in writing of all the terms and provisions of this chapter. Following City Council approval, the ordinance codified in this chapter shall be published in accordance with the *Code of Iowa*. The effective date of the ordinance codified in this chapter shall be the date of publication. In the event that MidAmerican Energy Company does not file its written acceptance of the ordinance codified in this chapter within 30 days after its approval by the City Council, the ordinance codified in this chapter shall be void and of no effect.

110.27 EFFECTIVE DATE. Upon the effective date of the ordinance codified in this chapter, 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 in conflict herewith are also hereby repealed.

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CHAPTER 111

ELECTRIC UTILITY

111.01 General	111.09 Meter Inspections and Tests
111.02 Electrical Installations	111.10 Access to Premises
111.03 Poles	111.11 Requirements For Power Service
111.04 Damage	111.12 Non-Liability
111.05 Fire and Emergencies	111.13 Rules, Regulations, and Rates
111.06 Permits and Inspections	111.14 Discontinuance of Service
111.07 Service Connections	111.15 Board of Trustees
111.08 Metering and Removal of Meters	111.16 Mandatory Reports to the City Council

111.01 GENERAL. The provisions of this chapter 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. The Durant Municipal Electric Board of Trustees shall be the governing body of equipment, poles, and materials operated and owned by Durant Municipal Electric.

111.02 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 requirement 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 chapter. All electrical installations shall conform to the current *National Electric Code* and *National Electric Safety Code*.

111.03 POLES. All poles shall be placed in City right-of-way.

111.04 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 shall not be responsible for any damages resulting therefrom.

111.05 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.

111.06 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.

111.07 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.

111.08 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.

111.09 METER INSPECTIONS AND TESTS. Electric meters shall be inspected and/or tested whenever the electric utility believes that any meter is not registering correctly.

111.10 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 clear them 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 12:00 a.m. to 11:59 p.m. asked of them relative to meters, wiring, equipment, and the consumption of electrical current.

111.11 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.

111.12 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.

111.13 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.

111.14 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 premises 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.

111.15 BOARD OF TRUSTEES. The City Council is the governing body of each City utility except that the Utility Board, as provided for in Chapter 388 of the *Code of Iowa*, 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 of the *Code of Iowa*. The proposal shall specify the Board shall consist of three or five members, in accordance with Chapter 388.2 of the *Code of Iowa*.
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 has three members.

111.16 MANDATORY REPORTS TO THE CITY COUNCIL.

1. The Board shall make to the City Council a detailed annual report, including a complete financial statement for the preceding year.
2. The Board must submit to the City Council a yearly budget for all financial activities for the forthcoming year.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

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

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

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

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

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee, and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

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

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

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

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

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class

of liquor control license or the holder of a Class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

(Code of Iowa, Sec. 123.49[2b] and 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 453A.1*)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

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

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license. An application fee of \$25.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following shall be provided to and any required fees paid to the Clerk prior to the issuance of any license.

1. Completion of solicitor application and all requirements.
2. Must provide photo ID or driver's license for each person in the vehicle that will be soliciting. Proof of auto insurance.
3. All individuals will be subject to a background check within 48 hours before permit is granted.
4. In addition to the application fee, the cost per person per day is \$50.00. There are no annual or weekly fees.

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday. No soliciting allowed on holidays or Sundays.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

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

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and

notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Students. Students representing the local Community School Districts conducting projects sponsored by organizations recognized by the school.
4. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
5. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a

bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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CHAPTER 123

MOBILE FOOD UNITS

123.01 Definitions
123.02 License Required
123.03 Application
123.04 Exceptions
123.05 General Regulations

123.06 Specific Regulations: Pushcarts
123.07 Specific Regulations: Mobile Food Units
123.08 Enforcement and Penalties
123.09 Municipal Infraction

123.01 DEFINITIONS.

1. “Commissary” means a licensed food facility regulated by a governmental entity where food is stored, prepared, portioned, packaged, or any combination thereof, and where such food is intended for consumption at another location or place from a mobile food unit or pushcart.
2. “Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. For purposes of this chapter, “food establishment” does not include:
 - A. An establishment that offers only pre-packaged food that is non-potentially hazardous.
 - B. A product stand which sells only whole, uncut fresh fruits and vegetables.
 - C. An establishment operating in a farmers market if potentially hazardous food is not sold or distributed.
 - D. A residence in which food that is non-potentially hazardous is sold for consumption off-premises to a consumer customer provided the food is labeled so as to identify its preparer.
 - E. A private home that receives catered or home-delivered food.
 - F. Child care facilities or food establishments in hospitals or health care facilities which are subject to regulation by State agencies.
 - G. Supply vehicles.
 - H. Vending machines.
3. “Mobile food unit” means a motorized, self-propelled food establishment or a trailer or vehicle towed by a motorized vehicle, that is readily movable, and which typically operates at a remote location and returns to a base of operation or commissary at the end of its daily business. Mobile food units are considered Class IV mobile food units by the Iowa Department of Inspections and Appeals.
4. “Mobile food unit zone” means an area of governmentally-owned property that has been designated as a location upon which food units and push carts may sell or offer for sale for immediate consumption food or beverage.

5. “Potentially hazardous food” has the same meaning as provided in Chapter 137F of the *Code of Iowa*.
6. “Pushcart” means a single axle, non-motorized cart, with top-loading capability only.

123.02 LICENSE REQUIRED. No person shall sell or offer for sale or otherwise engage in business as a mobile food unit or pushcart within the City without having first obtained a license to operate as such. A mobile food unit license is a special license and is required in addition to any other required City business license or State license or permit the person may hold or be required to hold. A separate mobile food unit license is required for each mobile food vehicle or pushcart from which business is conducted in the City. Mobile food unit licenses are not transferrable or assignable. The license issuance shall be approved by the City Council by resolution. If said license calls for establishment or operation in a public park, then approval must be granted by the Parks and Recreation Board prior to approval by the City Council. The license fee shall be set by resolution by the City Council. Permits expire at the end of each calendar year.

123.03 APPLICATION. An application form available from the City Clerk’s office must be filled out and submitted to the Building Inspector for processing. The completed application must be submitted together with a copy of the applicant’s Iowa retail sales tax permit and proof of liability insurance, including commercial general liability insurance coverage and automotive liability insurance coverage. Commercial general liability insurance shall include coverage for bodily injury, death, and property damage with limits of liability of not less than \$1,000,000.00 per occurrence and aggregate combined single limit. Automobile liability insurance coverage shall include coverage for bodily injury, death, and property damage with limits of liability of not less than \$1,000,000.00 per occurrence combined single limit. Certificates of insurance shall provide that the policy or policies have been endorsed to provide 30-days’ advance notice of cancellation and 45-days’ advance notice of non-renewal and 10-days’ advance notice of cancellation for non-payment of premium and that these notices shall be provided to the City Clerk’s office by email, facsimile, or mail. Cancellation of required insurance automatically revokes and terminates the mobile food unit license to operate in the City unless other insurance policies are provided in a timely manner to the City. The City shall be added as an additional insured. If the mobile food unit or pushcart sells food or beverages other than pre-packaged items that do not require hot or cold handling procedures, the application shall also contain a copy of the mobile food unit’s license issued by the Iowa Department of Inspections and Appeals, a copy of the food establishment license issued by the Iowa Department of Inspections and Appeals for any commissary kitchen or other premises where food is prepared, copies of the food protection manager certifications, the name and address of the facility at which any waste fat, waste oil, or waste grease generated by the mobile food unit or pushcart operation is disposed of, and a copy of the certificate of annual compliance issued by the Fire Marshal. Before a license is issued, the applicant shall pay a license fee.

123.04 EXCEPTIONS.

1. Temporary food units associated with a private party on private property, residential property hosted by the owner of the property upon which dispensing food or beverage such as a graduation party, wedding reception, birthday celebration, or similar event, are exempt from the licensing provisions of this chapter provided the unit’s participation is by invitation or contract with the host and provided the vendor displays proof of its authorization to operate in Iowa and required health inspection certification.

Such events with food units shall not occur more than once per year at the same property location.

2. License fees under this chapter are waived for mobile food unit or push cart vendors operating a mobile food unit or pushcart in connection with a business on the vendor's owned or leased real property upon which the vendor's brick-and-mortar business is located. Such vendor is subject to all fees under this chapter in the event the mobile food unit or push cart operates outside the vendor's owned or leased real property.

123.05 GENERAL REGULATIONS.

1. Mobile food units shall have, and at all times maintain, all necessary licenses and permits from the Iowa Department of Inspections and Appeals as well as the City's required permits and licenses.

2. Mobile food units shall at all times operate in compliance with all applicable food, health, and sanitation laws and shall comply with all health department regulations regarding food service, food storage and preparation, food handling, and food cooking, and shall have a valid inspection certificate or permit evincing health department inspection and approval on display and easily visible to the mobile food unit's or pushcart's patrons at all times in operation.

3. No mobile food unit or pushcart shall offer for sale or sell food or non-alcoholic beverage between the hours of 10:00 p.m. and 6:00 a.m.

4. No mobile food unit or push cart may operate in the right-of-way or outside of a designated mobile vending zone established by the City absent of the premises a special occurrence permit which must be approved by the Building Official.

5. No mobile food unit or pushcart shall operate within a City park unless such operation occurs within the boundaries of a designated mobile food unit zone.

6. No mobile food unit or pushcart shall park or stand its push cart or vehicle:

A. Within 20 feet of a pedestrian crosswalk, or a stop sign, or traffic light.

B. Adjacent to a designated bicycle lane.

C. Absent written authorization of the restaurant within 200 feet of any public entrance to any permanent restaurant during hours the restaurant is open for business. For purposes of this section, bars that serve food are deemed restaurants.

D. Within 1,200 feet of an approved special event with which the mobile food unit or pushcart is not directly involved.

7. No mobile food unit or pushcart shall operate in a manner that violates this Code of Ordinances concerning noise. A mobile food unit or pushcart operator shall not call out to, cry out, shout out, or otherwise communicate or make any noise or use any device to call attention to his or her unit's or cart's location and operation if it violates this Code of Ordinances.

8. A mobile food unit or pushcart is responsible for keeping and maintaining the area around and within 50 feet of the mobile food unit or pushcart neat, clean, and free from trash, debris, garbage, and other hazardous conditions at all times regardless of whether the trash, debris, or garbage originated from the operation of the unit or pushcart or was left in the area by a pedestrian passersby or natural conditions. A

mobile food unit or pushcart shall provide adequate trash receptacles for the public for all garbage from its operation and from the accumulation of garbage in the area around each unit or pushcart at all times the unit or pushcart is in operation. At the close of its daily business, the mobile food unit or pushcart must remove all garbage from the area and properly dispose of it away from the site of its operation. The garbage shall not simply be placed in nearby public garbage receptacles provided for use to the general public at large.

9. The license required by this chapter, the State sales tax permit, and all licenses, permits, or certificates required to be displayed by State law, shall be posted on the mobile food unit or pushcart so as to be readily visible to all persons conducting business with the mobile food unit.

10. Mobile food units and pushcarts shall only offer single service food utensils such as cups, straws, knives, forks, spoons, stirrers, plates, bowls, wrappers, containers, and similar utensils, which shall be individually wrapped if usual, and kept in a clean place and only used once in the service of food or beverage.

11. No mobile food unit or pushcart shall be left at its operating location at the end of its business day and shall be removed to its base business operation location.

12. No mobile food unit or pushcart shall conduct operations at a location or in a manner that hinders, impedes, or restricts access to a pay phone, mail box, emergency call box, traffic control box, fire hydrant, entrance to a building or a driveway, or any other similar infrastructure.

13. A mobile food unit or pushcart operating on private property shall not encroach into any public sidewalk or public right-of-way. All private property owners allowing mobile food units on property must register with the City as having a mobile kitchen for public safety purposes.

14. No mobile food unit or pushcart is allowed on the grounds of any school unless it has been invited to be there as part of a school-authorized function.

15. A pushcart and mobile food unit shall not violate parking regulations.

16. The City reserves the right to move a mobile food unit or pushcart from any location if determined to be necessary for the provision of emergency or public services or in the interest of public safety, peace, and welfare.

17. No mobile food unit or pushcart shall offer for sale, or sell, any liquor, beer, or wine from such unit.

18. City-sanctioned or sponsored events may be reserved or restricted by the City including the designated mobile food vending zone established by the City. Potential vendors shall check with the Building Inspector for current event Special Occurrence Permits. Special Occurrence Permits are given on a first come, first serve basis depending upon the space available. Invitation or contract must comply with the licensing provisions of this chapter and must display proof of its authorization to operate in Iowa and required health inspection certification.

19. All push cart and mobile food units agree to indemnify and hold harmless the City from and against any and all loss, cost, damages, or claims to persons or property, including property of the City, arising out of or claimed to have arisen out of the operation of a pushcart. In addition, vendors agree to defend, at no cost to the City, any such claims or lawsuits. The City may, at its option, join the defense of such claim or lawsuit without relieving the pushcart vendor from its obligations to indemnify, hold harmless, and defend the City.

123.06 SPECIFIC REGULATIONS: PUSHCARTS.

1. A pushcart shall not allow, cause, or obstruct the passage along any sidewalk, street, alley, or parking lot as a result of a congregation of people seeking service from the pushcart or because of the size, shape, or placement of the pushcart so as to interfere, inhibit, or block the normal flow of pedestrian or vehicular traffic.
2. A pushcart shall not sell to any person operating a vehicle on a public street while the person's vehicle is located within the traveled portion of the roadway. A pushcart may sell to a person operating or occupying a motor vehicle that is legally parked, but may only do so from the curb side of said parked vehicle.
3. No pushcart or equipment shall be allowed to remain in the public right-of-way at the close of business.
4. All pushcarts and equipment associated with the business shall be maintained so as to enhance aesthetic and overall appearance of the area in which the pushcart is operated.
5. Pushcarts shall be subject to the same permit and fee structure as all other mobile food units.

123.07 SPECIFIC REGULATIONS: MOBILE FOOD UNITS.

1. Sales shall be conducted on the sidewalk side of the mobile food unit whenever possible, away from moving vehicles.
2. No mobile food unit shall be used for any purpose other than as a mobile food unit offering food or non-alcoholic beverage to customers.

123.08 ENFORCEMENT AND PENALTIES. The following are authorized to enforce this chapter:

1. County Health Departments of Scott, Cedar, and Muscatine
2. City Building Inspector
3. Durant Police Department
4. Durant Fire Department
5. City Clerk

The County Health Departments may elect to pursue enforcement under the provisions of this chapter or under applicable State laws and regulations with the sanctions available thereunder.

123.09 MUNICIPAL INFRACTION. Any person, firm, or corporation who violates this chapter shall be guilty of a municipal infraction and shall be penalized as set forth in Chapter 4 of this Code of Ordinances.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling On Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street, alley, right-of-way, boulevard, or gutter of any public street in the City, any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Clerk.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Fee. The permit 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 each additional 100 feet, or major fraction thereof, of main excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in the amount of \$1,000,000 to guarantee such compliance.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the Business District it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner, and to minimize the liability of the City. New subdivisions shall require sidewalks and follow the Statewide Urban Design and Standards (SUDAS).

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal of a public sidewalk and/or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and

accumulations promptly from the sidewalk. Property owners will be billed \$50.00 per hour plus a \$75.00 administrative fee.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street, court, cul-de-sac, or avenue in the City, and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width, and Depth. Length, width, and depth requirements are as follows (except in new subdivisions, whereby SUDAS shall be followed):
 - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than five feet in length.

- B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than five feet in length. The business district is defined in Section 60.02(1).
 - C. Driveway areas shall be not less than six inches in thickness.
- 6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
 - 7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
 - 8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
 - 9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
 - 10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
 - 11. Ramps For Persons With Disabilities. There shall not be less than two curb cuts or ramps per lineal block which shall be located on or near intersections. SUDAS requirements shall be met with all ramps.

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported

by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. The City Council may refer to the Planning and Zoning Commission any proposal to vacate a street, alley, or portion thereof for its study and recommendation prior to further consideration by Council. If requested, the Commission shall submit a written report including recommendations to the Council within 30 days after the date of referral.

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. 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. The City Council may retain easement of the vacated portion for City infrastructure maintenance, success, or improvements.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.
(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.
(Code of Iowa, Sec. 174.15[2] and 364.7[3])

[illegible]

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CHAPTER 138

STREET GRADES

138.01 Purpose and Definition
138.02 Established Grades

138.03 Record Maintained

138.01 PURPOSE AND DEFINITION. This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades. As used herein, “grade” means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

138.02 ESTABLISHED GRADES. The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.03 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR’S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Durant, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner
145.05 Conduct of Hearing

145.06 Posting of Signs
145.07 Condemnation of Nuisance
145.08 Right to Demolish; Municipal Infraction
145.09 Costs

145.01 ENFORCEMENT OFFICER. The Inspector is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This

notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF DURANT, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 CONDEMNATION OF NUISANCE. The City may condemn a residential, industrial, or commercial 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 of the *Code of Iowa* by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

145.08 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.09 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 and 414.28)

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CHAPTER 148

WELL PROTECTION

148.01 Regulations
148.02 Distances

148.03 Application

148.01 REGULATIONS. The City hereby adopts by reference 567 IAC 43.3(7) and 567 IAC 43.3(7) Table A.

1. The City maintains legal control of the land within a 200-foot radius from a well site for the life of the well.
2. All separation distances listed in 567 IAC 43.3(7)"b" shall be maintained for the life of the well.
3. Ground surface drainage shall be directed away from the well for a minimum distance of 15 feet in all directions.

148.02 DISTANCES. No structure or facility of the enumerated types set out in 567 IAC 43.3(7) Table A shall be located within the distances set forth in the table from any public well within the City.

148.03 APPLICATION. The distances set forth in Table A, as amended, shall apply to all public wells existing and proposed within the City, except for public water wells formerly abandoned for use by resolution of the City Council.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. Within three days of the Certificate of Occupancy date, the owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four inches in height with a minimum stroke of one-half inch and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definitions	151.10 Tree Topping
151.02 Creation and Establishment of City Tree Board	151.11 Duty To Trim Trees
151.03 Term of Office	151.12 Pruning; Corner Clearance
151.04 Compensation	151.13 Dead or Diseased Tree Removal
151.05 Duties and Responsibilities	151.14 Removal of Stumps
151.06 Operation	151.15 Interference with City Tree Board
151.07 Park Tree Species not to be Planted	151.16 Review By City Council
151.08 Spacing	151.17 Street Trees
151.09 Public Tree Care	

151.01 DEFINITIONS. For use in this chapter:

1. “City foresters” means City staff and volunteers that plant and maintain trees and support appropriate tree and forest preservation.
2. “Park trees” means 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.
3. “Right-of-way” means a parcel of land intended to be occupied for streets, sidewalks, utilities, and other public purposes.
4. “Street trees” means 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.

151.02 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD. There is hereby created and established a City Tree Board for the City which shall consist of five members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the City Council.

151.03 TERM OF OFFICE. The term of the five persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first Board shall be for only one year and the term of two of the members of the first Board shall be for two 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.

151.04 COMPENSATION. Members of the Board shall serve without compensation.

151.05 DUTIES AND RESPONSIBILITIES. It shall be the responsibility of the Board to

1. Study, investigate, counsel, and develop, and 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.
2. Propose to City Council a comprehensive seven year tree plan for the community, and seek Council approval. 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.

3. 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.
4. Serve as the City foresters and work with Public Works Department concerning park and street trees.

151.06 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.

151.07 PARK TREE SPECIES NOT TO BE PLANTED. The following list constitutes the species of trees that cannot be planted in the right-of-way. No trees may be planted as park trees without written permission of the City Tree Board. (See permit information.)

1. Flowering pear, cottonwood, silver maple, ash, willow, poplar, pin oak, sweet gum, red maple, walnut.
2. Before any evergreen tree is planted, it must be approved by the Tree Board. No conifers, shrubs, or bushes shall be planted along any street or corners.

151.08 SPACING. The spacing of park trees will be in accordance with the three species size classes listed in Section 151.07 above, and no trees may be planted closer together than the following:

1. Small trees, 20 feet
2. Medium trees, 30 feet
3. Large trees, 40 feet
4. Exceptions may be made in special plantings designed and approved by a landscape architect or the City Tree Board.

151.09 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.

151.10 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 three 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 chapter at the determinations of the City Tree Board or Municipal Electrical Board.

151.11 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on or overhanging the street trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may

perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.12 PRUNING; CORNER CLEARANCE. Every owner of any tree on private property 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 above the surface and 14 feet above streets. 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.

151.13 DEAD OR DISEASED TREE REMOVAL. 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. 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 will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 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.

151.14 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.

151.15 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 chapter.

151.16 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.

151.17 STREET TREES. Any property owner that wishes to plant in the City right-of-way shall first apply for a permit from the City. Once the Tree Board has reviewed the location plans and the species of the planting or tree, they can approve or deny the permit. No one shall plant in the City right-of-way without a permit.

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CHAPTER 152

OUTDOOR FURNACES

152.01 Purpose
152.02 Definitions
152.03 Permit Required

152.04 Existing Outdoor Furnaces
152.05 Specific Requirements
152.06 Permit Application and Issuance

152.01 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.

152.02 DEFINITIONS. For use of this chapter:

1. “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.
2. “Stack” or “chimney” means any vertical structure enclosing a flue that carries off smoke, exhaust, and other emissions from an outdoor furnace.

152.03 PERMIT REQUIRED. Except as provided in Section 152.04 below, no person shall cause, allow, or maintain the use of an outdoor furnace or install, construct, or relocate an outdoor furnace within the City without first having obtained an outdoor furnace permit from the City Building Inspector, or cause, allow, or maintain the use of an outdoor furnace after the expiration or revocation of any permit issued for such outdoor furnace. A permit shall be valid only for a specific outdoor furnace at a specific location and shall automatically expire if use of the outdoor furnace ceases for a contiguous period of two years or more. A permit is transferable to subsequent owners of the lot on which the outdoor furnace is located.

152.04 EXISTING OUTDOOR FURNACES. Any outdoor furnace in existence on the effective date of the ordinance from which this chapter is derived shall be permitted to remain subject to the following requirement:

1. Temporary Exemption. Outdoor furnaces in existence on the effective date of the ordinance codified in this chapter shall be exempt from the provisions of this chapter unless:
 - A. The outdoor furnace use of the outdoor furnace ceases for a contiguous period of two years or more.
 - B. The existing furnace is replaced with a new outdoor furnace
 - C. If the police department receives more than three complaints in seven days about smoke or smell.
2. Setback Exemption. The provision of Section 152.05 below shall not apply to any outdoor furnace in existence on the effective date of this ordinance; provided however, that no existing furnace shall thereafter be moved to or replaced by a new furnace at any location which is not in compliance with the setback requirement.

3. The term “existing” or “in existence” means the outdoor furnace is in place on a lot operating as of the date of the ordinance codified in this chapter.

152.05 SPECIFIC REQUIREMENTS. Except as provided by Section 152.04, all outdoor furnaces shall comply with the following rules and regulations:

1. **Manufacturer’s Instructions.** All outdoor furnace shall be installed, operated and maintained in accordance with the manufacturer’s instructions. All new outdoor furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, ANSI, or other applicable safety standards.
2. **Setbacks.** Outdoor furnaces shall be restricted to the rear yard area only, having a minimum setback of 10 feet from the side and rear property lines.
3. **Permitted Dates of Use.** October 1 through April 1.
4. **Allowable Fuels.** Only firewood, clean wood, untreated lumber, fossil fuels, corn, or biomass products (excluding leaves and yard waste) are permitted to be burned in any outdoor furnace. Burning of other materials is prohibited. No outdoor furnace shall be utilized as a waste incinerator. All outdoor furnaces shall burn clean with little or no smoke produced. The term “clean, dry wood” means wood that has not been painted, stained, coated, pressure treated with preservatives, not newly cut, and does not contain any glues as in plywood or other composite woods.
5. **Starting.** Petroleum products and chemicals shall not be used to start an outdoor furnace.
6. **Stack Requirements.** Every outdoor furnace shall be equipped with a stack or chimney through which passes all smoke and other emissions produced by the furnace. All stacks must be constructed as to withstand high winds and other weather elements. Stack height shall be in accordance with the following:
 - A. If located 100 feet or less from any residence or occupied structure not served by the outdoor furnace, the stack must extend to at least two feet above the eave line of the structure.
 - B. In no event shall a stack extend 16 feet above the ground surface.
 - C. In the event the minimum stack height does not adequately remove fumes from any adjacent property, additional height or modifications will be required, at the furnace owner’s expense.
7. All outdoor furnaces shall comply with all other applicable County, State or federal regulations.
8. All outdoor furnaces shall be updated to maintain compliance with this and any other applicable County, State, or federal regulations as they may be amended or rewritten from time to time.

152.06 PERMIT APPLICATION AND ISSUANCE.

1. **Applications and Permit Fees.** An application for an outdoor furnace permit shall be made to the City Building Inspector. With the application shall be:
 - A. A site plan.
 - B. Name of manufacturer and model number with copy of manufacturer’s installation, operations, and maintenance instructions.

2. Any person who violates, disobeys, neglects, or fails to comply with, or resists the enforcement of any of the provisions of this chapter or any of the terms and conditions of any permit, regulation, or lawful order of the Building Inspector made under authority of this chapter shall be guilty of a simple misdemeanor and a municipal code infraction. Each day that a violation exists or continues shall constitute a separate offense.

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CHAPTER 153

PROPANE TANKS

153.01 Tanks Allowed
153.02 Permits
153.03 Installers and Distributors

153.04 Tank Restrictions
153.05 Location of Tanks

153.01 TANKS ALLOWED. Following proper application to the Building Inspector 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.

153.02 PERMITS.

1. The Building Inspector 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 Building Inspector, the Building Inspector has received all information required under this chapter, and a Propane Tank Permit has been issued by the Building Inspector.
2. 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.
3. A permit shall be obtained for each installation of liquefied petroleum (LP) 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.

153.03 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 relates to the specific property and any adjacent property lines. If in compliance with the requirements of this chapter 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.

153.04 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 hereby adopts by this reference NFPA Standards 58 and 54. City Hall shall maintain a copy of said regulations for inspection.

153.05 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:

Water Capacity	Minimum Distance to Building	Distance to Property Line
Up to 500 gallons	10 feet	10 feet

1. 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 air conditioning compressor, central air conditioning unit, and intakes to direct vented gas appliances or intakes to a mechanical ventilation system).
2. 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.
3. 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 placed perpendicular to the street or avenue where the residence is located.

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CHAPTER 155

BUILDING CODE

155.01 Short Title
155.02 Adoption of Codes

155.03 Fees

155.01 SHORT TITLE. This chapter 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.

155.02 ADOPTION OF CODES. Pursuant to published notice and public hearing, as required by law, the following codes, which are currently adopted by the State of Iowa, as they are from time to time amended, are hereby adopted by the City:

1. International Building Code 2018
2. International Property Maintenance Code 2012
3. Electrical Code 2017
4. Plumbing Code 2018
5. Mechanical Code 2018
6. International Fuel Gas Code 2018

Official copies of the Iowa State Building Codes, the standard codes adopted therein, are on file in the office of the City Clerk.

155.03 FEES. The Council shall set by resolution a schedule of fees for building permits.

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CHAPTER 156

SOLAR PANELS AND ENERGY SYSTEMS

156.01 Purpose and Definitions

156.02 Permit Process

156.03 General Standards

156.04 Liability

156.05 Maintenance and Abandonment

156.01 PURPOSE AND DEFINITIONS. The purpose of this chapter is to provide regulations for construction, installation, and operation of solar energy systems in the City limits. 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. For use in this chapter, the following terms are defined:

1. "Accessory structure" means a structure which is on the same lot or parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.
2. "Building-integrated solar energy system" means 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.
3. "Ground-mounted solar energy system" means a solar energy system that is free standing, directly installed to the ground, and is not supported by any building, accessory, or dwelling. For the purposes of this chapter, solar powered lights used to illuminate exterior areas shall not be included in this definition.
4. "Passive solar energy system" means a system that captures solar light or heat without transforming it to another form of energy or transferring the energy via heat exchanger.
5. "Principal structure" means the main structure or building on a lot or parcel in which the primary permitted use by right occurs.
6. "Roof-mounted solar energy system" means a solar energy system mounted directly abutting the roof or as modules fixed to frames which can be tilted toward the south optimal angle.
7. "Solar energy system" means 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.
8. The solar standards shall apply to all zoning districts, including all land within the corporate City limits. All applications for solar energy systems shall be in accordance with this chapter.

156.02 PERMIT PROCESS. All owners of residential, commercial, or industrial property, shall acquire a building permit from the City, provide a shade report or equivalent documentation from a licensed solar installer, and complete the Solar PV Worksheet (See

Appendix), prior to construction of solar energy systems. Roof mounted solar energy systems need only approved building permit as long as requirements are met. Ground mounted solar energy require approval from the Planning and Zoning Commission and possibly the Board of Adjustment. Ground mounted systems must meet required setbacks and shall not be constructed in any easement. The process shall follow Chapter 165 of this Code of Ordinances.

156.03 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 it is installed.
3. Height. Roof mounted solar energy systems in residential applications shall not be higher than 10 inches above the roof at any point. Ground mounted solar energy systems in residential applications shall not exceed 15 feet in height from grade to total extended height.
4. Location. The locations of ground mounted systems should avoid being in eyesight from the street. Roof mounted systems must be placed on rear side facing roofs which do not front any public street, unless a shade report or equivalent documentation can be provided that such locations would be impractical or ineffective by a licensed solar installer. If panels must be pitched, they shall not exceed a pitch of 25 degrees. The placement of the panels on angled roofs shall be designed so they do not extend beyond the ridgeline or edges of the roofline.
5. Setbacks. Ground mounted systems shall meet all setback requirements for the applicable zoning district for accessory structures. Roof mounted systems shall not extend beyond the exterior perimeter of the building on which the system is mounted.
6. Easements. Solar energy systems shall not encroach on any platted public easement.
7. Screening. Solar energy systems shall be screened from street view to the extent possible without reducing their efficiency. The applicant shall submit a landscaping plan with the building permit application for ground mounted solar energy systems.
8. Aesthetics. All solar energy systems shall use colors that blend in with surrounding settings. Reflection angles from collector surfaces shall be oriented away from neighboring windows. All exposed electrical or plumbing lines shall be 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 should be compatible with roof color). Exposed frames shall have non reflective surface. Aluminum trim, if use and visible, shall be of a color compatible with the surface upon which it was installed.
9. Maximum Area of Unit. Ground mounted solar energy systems shall be treated as an accessory structure and thus are limited in area to the accessory structure limitations as set by this Code of Ordinances.
10. Compliance With International Building Codes as adopted by the City (2018). Building permit applications for ground mounted solar energy systems shall be accompanied by standard drawings of the solar energy system structure, including the

panels, base and footings. For roof mounted applications, standard drawings showing the capability of a roof to support such a proposal shall be submitted for review. An engineering analysis of the system showing compliance with the International Building Codes as adopted by the City and certified by a licensed professional engineer shall also be submitted.

11. Compliance With Federal Regulations. Solar energy systems must comply with applicable federal regulations.

12. Compliance With National Electric Code. Building permit applications for solar energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code 2017.

13. Utility Notification. No solar energy system shall be installed until evidence has been given that the electric utility provider has been informed of the customer's intent to install an interconnected customer-owned generator and the customer can show proof that they have received, understand, and agree to abide by the utility's requirements for net metering and distributed generation installation. A written statement from the utility company shall be presented at the time of applying for a construction building permit showing compliance with the disconnect requirement.

156.04 LIABILITY. The owner of a solar energy system shall defend, indemnify, and hold harmless the City and their officials from and against any and all claim, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever including attorney fees arising out of the actions or missions of the operator or the operator's contractors concerning the construction or operations of the solar energy facility without limitation, whether said liability is premised in contract or tort. Owner's submittal for a building permit for a solar energy system shall constitute agreement to defend, indemnify, and hold harmless the City officials.

156.05 MAINTENANCE AND ABANDONMENT.

1. Maintenance. All solar energy facilities shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all the requirements in this chapter and permit conditions for a continuous 180 days.

2. Abandonment. If the City Building Inspector determines the system does not meet the requirement and has not been used for 180 continuous days, the City shall provide notice to the owner and the owner shall have 30 days to respond. If it is determined the system is abandoned, the owner (at the owner's sole expense) shall dismantle the system and restore the site to its original condition and vegetation within 120 days. This determination shall include the requirements or conditions associated with the solar energy system not being met for a continuous 180 days.

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CHAPTER 157

WIND ENERGY SYSTEMS

157.01 Purpose

157.02 Definitions

157.03 Permit Requirements

157.04 Bulk Regulations

157.05 General Regulations

157.06 Abandonment

157.07 New Technologies

157.08 Liability and Damages

157.01 PURPOSE. The purpose of this chapter is to balance the need to accommodate wind energy systems in appropriate locations, while minimizing any adverse visual, safety, and environmental impacts such systems. In addition, this chapter provides a permitting process for wind energy systems to ensure compliance with the provision of the requirements and standards established herein.

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

1. “Commercial wind energy system” means a wind energy conversion system that is intended for producing electricity for sale to a rate regulated or non-regulated utility or for use off-site.
2. “Dispersed wind energy system” means a wind energy conversion system that has a rated capacity for 100 kilowatts or more, is incidental and subordinate to a permitted use on the same parcel, and is intended to produce electricity primarily for use on-site. Such system may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility company. Excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with the Section 199 Chapter 15.1 l (5) of the Iowa Administrative Code.
3. “Height (system)” means the height above the grade of the wind energy system, including the tower, generating unit, and the highest vertical extension of any blades or rotors. Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.
4. “Small wind energy system” means a wind energy conversion system which has a rated capacity of up to 100 kilowatts and which is incidental and subordinate to a permitted use on the same panel. A system is considered a small wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess power generated and not presently needed for on-site may be used by the utility company in accordance with Section 199, Chapter 15.11 (5) of the Iowa Administrative Code.
5. “Tower wind energy system” means any free-standing vertical structure that supports the electrical generator, rotor blades, or meteorology equipment.
6. “Wind energy system (WES)” means an electrical generating facility comprised of wind turbine and accessory facilities, including but not limited to: power lines, transformers, substations, and meteorological towers.

157.03 PERMIT REQUIREMENTS. No wind energy system shall be erected, constructed, installed or modified without first obtaining a special use permit from the Board of Adjustment. Applicant must provide detailed Site Plan plus any other requirements under Section 165.35 of the Zoning Code. The Board of Adjustment may review a special use permit at any time if an approved system does not comply with the rules set forth in this chapter and conditions imposed by the Board of Adjustment. The Board may set additional terms or timeframe for compliance for the wind energy system. 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.

157.04 BULK REGULATIONS. The placement of the wind energy systems on private or public property shall comply with the following requirements:

1. Minimum Lot Size.
 - A. Dispersed wind energy systems shall require a minimum of 10 acres for location. An additional acre shall be required for each additional wind energy system allowed.
 - B. No minimum lot size is required for small wind energy systems, provided they meet all other requirements of this chapter.
2. Setback Requirements.
 - A. A setback of 110 percent of the total system height from any property line or overhead utility lines is required. Guy wires shall not extend into the setbacks. No part of the wind energy system shall be located in any setback or easement space.
 - B. All wind energy systems shall have a maximum height of 80 feet.
 - C. Ground clearance for the rotor blades shall not extend within 20 feet of the ground or other structures.
 - D. The base of the system shall not be climbable up to 15 feet from the ground. A wind energy system shall be located entirely in the rear yard.
 - E. The sound of the system shall not exceed 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-colored, 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.
 - L. A disbursed wind energy system shall be located a minimum of 1,000 feet from the nearest inhabited residential structure, school, or place of worship

not on property owned or controlled by the owner/operator of the dispersed wind energy system.

157.05 GENERAL REGULATIONS.

1. Insurance Requirements. The following insurance requirements are mandatory 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 \$1,000,000.00 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 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.

157.06 ABANDONMENT. Any wind energy system that is not operated for 180 consecutive days shall be considered abandoned and shall constitute a nuisance. The owner shall dismantle and remove the entire system from the property within 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.

157.07 NEW TECHNOLOGIES. Should new technology present itself within the term of any permit or lease that is more effective, efficient, and economical, the permit holder may petition the City to allow the upgrade, provided the upgrade does not alter the conditions set forth in this chapter.

157.08 LIABILITY AND DAMAGE. The owner or operator of a wind energy conversion system must demonstrate adequate insurance requirements as follows:

1. The following insurance requirements are mandatory 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 \$1,000,000.00 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. Upon granting of a permit, applicant shall assume full responsibility for any and all damages, claims, expenses, liabilities, judgements, and costs of any kind, including reasonable attorney fees related to or caused by the erection, location, use, or removal of a facility whether on public or private property, and shall agree to hold the City harmless, indemnify, and defend it from all such liabilities incurred or judgements entered against it as a result of the erection, location, use, or removal of the facility.

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CHAPTER 160

FLOODPLAIN MANAGEMENT

160.01 Definitions	160.06 Establishment of Variance Procedures
160.02 Statutory Authority, Findings of Fact and Purpose	160.07 Nonconforming Uses
160.03 General Provisions	160.08 Penalties for Violation
160.04 Administration	160.09 Amendments
160.05 Standards For Floodplain (Overlay) District	

160.01 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year (also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 160.05(4)(A) of this chapter; and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking, or storage; and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation; and
 - D. The enclosed area is not a basement, as defined in this section.
7. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.

8. “Existing factory-built home park or subdivision” means 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 first floodplain management regulations adopted by the community.
9. “Expansion of existing factory-built home park or subdivision” means 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 at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. “Factory-built home park or subdivision” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. “500-year flood” means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
13. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
14. “Flood insurance rate map” (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
15. “Flood insurance study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. “Floodplain” means any land area susceptible to being inundated by water as a result of a flood.
17. “Floodplain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing, and floodplain management regulations.
18. “Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
19. “Floodway” means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

20. "Floodway fringe" means those portions of the special flood hazard area outside the floodway.
21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. "Historic structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of 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 preservation 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: (i) by an approved State program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of "enclosed area below lowest floor" are met.
24. "Maximum damage potential uses" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.
26. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. "New factory-built home park or subdivision" means 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 on or after the effective date of the first floodplain management regulations adopted by the community.
28. "Recreational vehicle" means a vehicle which is:
- A. Built on a single chassis;

- B. Four hundred (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 a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding.
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - C. Basement sealing.
 - D. Repairing or replacing damaged or broken window panes.
 - E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems and repairing wells or septic systems.
30. "Special flood hazard area" (SFHA) means the land within a community subject to the base flood. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. "Start of construction" includes substantial improvement, and means the date the development 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 or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, 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 the building, whether or not that alteration affects the external dimensions of the building.
32. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.
33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. “Variance” means a grant of relief by a community from the terms of the floodplain management regulations.

36. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has, in Chapter 414 of the *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges, and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Paragraph 2(A) of this section with provisions designed to:

A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

- B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 GENERAL PROVISIONS.

1. **Lands to Which Chapter Applies.** The provisions of this chapter shall apply to all lands within the jurisdiction of the City which are located within the boundaries of the Floodplain (Overlay) District as established in this section.
2. **Establishment of Official Floodplain Zoning Map.** The Flood Insurance Rate Map (FIRM) for Cedar County and Incorporated Areas, City of Durant, Panel 19031C0400C, dated August 19, 2013, which were prepared as part of the Flood Insurance Study for Cedar County is hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The Cedar County Flood Insurance Study is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations.
3. **Rules for Interpretation of Floodplain (Overlay) District.** The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Floodplain Manager or Building Inspector shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Manager or Building Inspector in the enforcement or administration of this chapter.
4. **Compliance.** No structure or land shall hereafter be used, and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
5. **Abrogation and Greater Restrictions.** It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
6. **Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
7. **Warning and Disclaimer of Liability.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that

areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

8. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.04 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Floodplain Administrator.

A. The Floodplain Manager is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of: (i) the elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of all new or substantially improved structures; or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.

(6) Submit to the Federal Insurance Administration an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

- a. Development placed within the Floodway (Overlay) District results in either of the following: (i) an increase in the base flood elevations; or (ii) alteration to the floodway boundary;
- b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
- c. Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

(11) Forward all requests for variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation, or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all buildings and building additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All Development. All development within the Floodplain (Overlay) District shall:

A. Be consistent with the need to minimize flood damage.

B. Use construction methods and practices that will minimize flood damage.

C. Use construction materials and utility equipment that are resistant to flood damage.

D. Obtain all other necessary permits from federal, State, and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevations. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevations and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must

be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

3. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the lowest floor (not including basements) that 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 meet or exceed the following minimum criteria:

- (1) A minimum of two openings, with positioning on at least two walls, 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.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must 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.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities elevated or flood proofed to a minimum of one foot above the base flood elevation.

5. Factory-Built Homes.
 - A. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood level.
 - B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.
6. Utility and Sanitary Systems.
 - A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.
 - C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.
 - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of Materials and Equipment. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and be anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.
8. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development

associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.

11. Accessory Structures to Residential Uses. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

- A. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.
- B. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
- C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- D. The structure shall be firmly anchored to resist flotation, collapse, and lateral movement.
- E. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
- F. The structure's walls shall include openings that satisfy the provisions of Subsection 4(A) of this section.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

- A. Recreational vehicles are exempt from the requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
 - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and
 - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

160.06 ESTABLISHMENT OF VARIANCE PROCEDURES.

1. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the 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 codes or ordinances.

B. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

2. Factors upon Which the Decision of the Board of Adjustment Shall Be Based. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - E. The importance of the services provided by the proposed facility to the City.
 - F. The requirements of the facility for a floodplain location.
 - G. The availability of alternative locations not subject to flooding for the proposed use.
 - H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets, and bridges.
 - M. Such other factors which are relevant to the purpose of this chapter.
3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:
- A. Modification of waste disposal and water supply facilities.
 - B. Limitation of periods of use and operation.
 - C. Imposition of operational controls, sureties, and deed restrictions.
 - D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
 - E. Floodproofing measures.

160.07 NONCONFORMING USES.

- 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
 - A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that 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, unless it is reconstructed in conformity with the provisions of this chapter. 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, provided that the alteration shall not preclude its continued designation.

160.08 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

160.09 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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CHAPTER 165

ZONING REGULATIONS

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165.01 TITLE. This chapter shall be known and may be referred to as the “Zoning Regulations of the City of Durant, Iowa,” and shall be referred to herein as “this chapter.”

165.02 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. 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.

165.03 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter 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 chapter shall control.

165.04 DEFINITIONS. For the purpose of this chapter, 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.

1. “Accessory use” or “accessory structure” means 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.

2. "Agricultural use" means 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.
3. "Alley" means a public way, other than a street, 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.
4. "Alterations, structural" means 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.
5. "Apartment" means a room or set of rooms fitted especially with housekeeping facilities and usually rented or leased as a dwelling.
6. "Basement" means a story partly or wholly below grade. A basement is counted as a story for the purpose of height regulations if more than 50 percent 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.
7. "Bed and Breakfast" means 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.
8. "Billboard" means 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 or 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.
9. "Boarding house" means a building other than a hotel or motel where, for compensation, lodging and meals are provided for four or more persons.
10. "Buildable area" means the portion of a lot remaining after required yards have been provided.
11. "Building" means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs or billboards.
12. "Building, height of" means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or a hip roof.
13. "Building setback line" means, 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 feet 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.
14. "Feed lot" means 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.

15. “Home occupation” means 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 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.

16. “Junk yard” means any area where waste, discarded, or salvaged materials 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.

17. “Kennel (dog)” means any premises on which three or more dogs, six months old or older, are kept.

18. “Landscaping” means to improve the aesthetic appearance of a piece of land by changing its contours and adding ornamental features and plantings. Natural vegetation such as trees, shrubs, and ground covers used in landscaping have been shown to reduce stormwater runoff, improve water quality, improve air quality, and enhance the quality of life and economic value of a property.

19. “Lot” means 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 chapter.

20. “Lot, corner” means a lot abutting upon two or more streets at their intersection.

21. “Lot depth” means the mean horizontal distance between the front and rear lot lines.

22. “Lot, double-frontage” means a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

23. “Lot, interior” means a lot other than a corner lot.

24. “Lot lines” means the lines bounding a lot, including the right-of-way line of any public road or highway acquired by easement.

25. “Lot of record” means 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, the description of which has been so recorded.

26. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.
27. "Lot, reversed frontage" means 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.
28. "Mobile home" means any vehicle which at any time 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 chapter shall be construed as permitting a mobile home in other than an approved mobile home park.
29. "Nonconforming use" means any building or land lawfully occupied by a use at the time of passage of the ordinance codified in this chapter (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 chapter that such uses not continue indefinitely but such buildings or land become legal conforming uses over time in the district in which they are located.
30. "Parking space, off-street" means 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.
31. "Porch, unenclosed" means a roofed projection which has no more than 50 percent of each outside wall area enclosed by a building or siding material other than meshed screens.
32. "Principal use" means the main use of land or structures as distinguished from an accessory use.
33. "Rooming house" means a building where a room or rooms are provided for compensation to four or more persons.
34. "Sign" means 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.

35. “Sign (exterior)” means 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.

36. “Sign (free-standing or post)” means 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.

37. “Special use” means 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 Sections 165.35 and 165.39 of this chapter.

38. “Story” means 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.

39. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four feet above the top floor level.

40. “Street line” means the right-of-way line of a street.

41. “Street or road, public” means any thoroughfare or public way not less than 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 chapter, provided the right-of-way is 50 feet or more in width.

42. “Structural alterations” means 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.

43. “Structure” means 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 six feet in height), billboards, poster panels, solar collectors, and dish antennae.

44. “Travel trailer” means a recreational vehicle, with or without motive power; designed as a temporary dwelling, not exceeding eight feet in width and 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.

45. “Yard” means an open space on the same lot with a building or structure, unoccupied and unobstructed by any portion of a structure from 30 inches above the general ground level of the graded lot upward, except as may be provided by other sections of this chapter. 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.

46. “Yard, front” means 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.

47. “Yard, rear” means 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.

48. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

165.05 ESTABLISHMENT OF DISTRICTS. In order to carry out the purpose and intent of this chapter, the area of the City is hereby divided into nine zoning district classifications as follows:

1. R-1 Single Family Dwelling District
2. R-1A Single and Two Family Dwelling District
3. R-2 Multiple Family Dwelling District
4. R-3 Mobile Home Park Dwelling District
5. RT-1 Residential Transitional District
6. C-1 Central Commercial District
7. C-2 General Commercial District
8. I-1 Light Industrial District
9. I-2 Heavy Industrial District

165.06 OFFICIAL ZONING MAP. The boundaries of the districts established in Section 165.05 are indicated upon the Official Zoning Map of the City, which map is made a part of this chapter 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 chapter 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 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 Section 165.06 of this chapter. If, in accordance with the provisions of this chapter, 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 and in the Editor's Note below.

[illegible]

165.07 INTERPRETATION OF BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. 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.
3. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
4. Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits.
5. 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.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. 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 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

165.08 ANNEXATION OF TERRITORY. All territory which may hereafter be annexed to the City 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 chapter.

165.09 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.

165.10 NONCONFORMING USES AND STRUCTURES. Within the various districts established by this chapter or amendments that may later be adopted, there exist structures and uses of land and structures which were lawful prior to the adoption of the ordinance codified in this chapter but which would be prohibited, regulated, or restricted under the provisions of this chapter. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses or structures are termed "legal nonconforming uses or structures" and declared by this chapter to be incompatible with permitted uses in the districts involved and therefore identified for eventual removal.

1. Nonconforming Use of Land, Use of Structures, and Structures In Any Residential District.
 - A. Nonconforming Use of Land. The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the terms of this chapter as adopted or amended may be continued so long as it remains or amendment of this chapter. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel which

was not occupied by such use at the effective otherwise lawful, subject to the following provisions:

- (1) No such nonconforming 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;
- (2) If any such nonconforming use ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

B. Nonconforming 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 chapter in the district in which it is located, except when required by law, shall be enlarged, extended, reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located;
- (2) Any nonconforming 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 the ordinance codified in this chapter. No such use shall be extended to occupy any land outside such building;
- (3) If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature within the same or a more restricted classification. Whenever a nonconforming 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 nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for a period of two years, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land;
- (5) Any structure devoted to a use made nonconforming by this chapter that is destroyed by any means to an extent of 60 percent of 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 60 percent destroyed above the foundation, it may be reconstructed and used before provided it be done within six months of such happening, and be built of like or similar materials.

C. Nonconforming Structures. Where a structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or 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 nonconformity;
- (2) Should such structure be destroyed by any means to an extent of 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 chapter.

2. Nonconforming Use of Land, Use of Structures, and Structures In Any District Other Than a Residential District.

A. Nonconforming Use of Land. The regulations described in Subsection 1A shall also apply to this subsection.

B. Nonconforming Use of Structures. The regulations described in Subsection 1B 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 nonconforming by this chapter 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 it is located, provided such construction shall be limited to buildings on land owned, of record, by the owner of the land devoted to the nonconforming use prior to the effective date of the ordinance codified in this chapter. Such structural alteration or enlargement shall not authorize the substitution of a nonconforming use that is less restrictive than the one to which the structure was devoted at the time of passage of the ordinance codified in this chapter.

C. Nonconforming Structures. The regulations described in Subsection (1)(C) shall also apply to this subsection.

3. Required Repairs and Unauthorized Nonconformities.

A. Nothing in this chapter shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

B. Any use of land, use of structure, or structure, in existence at the time of adoption of the ordinance codified in this chapter which was not an authorized nonconformity under any previous zoning ordinance or similar regulations shall not be authorized to continue its nonconforming status pursuant to this chapter or amendments thereto.

165.11 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 5,000 gallons, electrical, plumbing, and HVAC/mechanical. 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.

1. 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 a project inspected and approved. All building permits are valid for a period of one 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 one-and-one-half-year period will be subject to City nuisance and abatement proceedings.
2. The applicant warrants that said applicant 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 this Code of Ordinances, sanitary sewer connections and related matters, water connections and related matters, electrical wiring and related matters, building codes and related matters, and excavation.

165.12 ACCESSORY BUILDINGS. Accessory buildings shall comply with the following requirements:

1. A building permit is required for all accessory buildings exceeding 12 feet by 12 feet. 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 feet from the side and eight 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 feet from said right-of-way to permit safe access.
6. An accessory building shall not occupy more than 40 percent of the rear yard, and shall not exceed 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 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.
9. Free-standing detached carports are prohibited by this chapter. All carports must be attached to principle building or existing garage.
10. Carports shall be considered an accessory structure with the same requirements as a garage. Carports must be used for storage of vehicles with a motor, and have a permanent dust free parking space.

165.13 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 right-of-way including alleys and shall include invisible fences.
2. Fences and structural walls shall not exceed four feet in height in any front yard and not more than six feet in any side or rear yard. Fences in non-residential districts shall not exceed 12 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 chapter, with fences greater than four 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 feet in height above the street level shall be located within a triangular area composed of two of its sides 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 40 foot triangular area shall be more than 10 percent 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.

165.14 HOME OCCUPATIONS AND BUSINESSES. 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 chapter.

1. 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:
 - A. Not more than one person who is not a resident on the premises shall be employed by the home occupation.

- B. No home occupation shall occur or be approved for placement or location in an accessory building, including any garage, except as provided in Subsection F below.
- C. No more than 25 percent or 400 square feet of the finished floor area of the dwelling unit, whichever is less, shall be devoted to the home occupation.
- D. No alteration of the principal residential building shall be made which changes the character or appearance thereof as a dwelling or dwelling unit.
- E. No stock of finished goods, materials for sale, or raw materials, or combination thereof, shall exceed 30 cubic feet at any given time.
- F. The home occupation shall be conducted entirely within the principal dwelling unit or in a permitted building accessory unit.
- G. The home occupation use shall not be readily apparent from any public way.
- H. The outside storage of any equipment, raw materials, finished goods, or disposable or demolition products associated with the home occupation shall be prohibited.
- I. Not any more than one commercial vehicle used in connection with any home occupation shall be parked on the property.
- J. 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.
- K. 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.
- L. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of: i) product preparation or manufacture; ii) vehicular traffic generated by the home occupation; iii) generation or emission of noise, smoke, dust or other particulate matter; iv) generation of malodorous matter; v) generation of heat, humidity, glare, or radiation; vi) generation of refuse or garbage beyond the refuse or garbage normally associated with a residential dwelling; or vii) generation of other objectionable materials or emissions.
- M. No sign shall be used to advertise or announce a home occupation except one 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.
- N. There shall be no off-premises signs linking the premises with the home occupation.
- O. 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.

2. 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.

- A. Providing personal education instruction to not more than four students at any given time.
- B. Office facilities for accountants, architects, brokers, business consultants, computer consultants, engineers, lawyers, insurance agents, and real estate agents.
- C. Office facilities for ministers, priests, rabbis, imams, and other recognized religious leaders.
- D. Office facilities for salespeople, sales representatives, and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.
- E. Homebound employment of any person who is challenged or disabled under the definitions contained in the Americans with Disabilities Act.

165.15 STREET FRONTAGE REQUIRED. Except as permitted in Section 165.23 of this chapter, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least 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 20 feet wide to a street; and there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least 50 feet wide may be provided for two or more such single-family dwellings or for one or more two-family or multiple dwellings.

165.16 REQUIRED YARD. No yard or lot existing at the time of passage of the ordinance codified in this chapter shall be reduced in dimension of area below the minimum required by this chapter. 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 chapter shall be included as part of a yard, open space, of off-street parking or loading space required under this chapter for another building, structure, or use.

165.17 BUILDING ON LOTS 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 two lots of record may place a building on the center portion of both lots or on the lot line, however, both lots become one lot from a zoning standpoint and for future sales purposes. In addition, only 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.

165.18 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 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 28 feet nor to prohibit the erection of an accessory building.

165.19 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 30 percent or more of the frontage within 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 50 feet in any case.

165.20 ZONING DISTRICTS DIVIDING PROPERTY. Where one parcel of property is divided into two 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 chapter, each portion shall be considered as if in separate and different ownership.

165.21 PARKING, STORAGE, AND RECREATIONAL EQUIPMENT. For purposes of this chapter, 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 Section 321.1 of the *Code of Iowa*. No major recreational equipment shall be parked or stored on any lot in a residential district except in i) garage; ii) enclosed building; iii) in the rear yard area only, provided such major recreational equipment shall not be parked or stored closer than 10 feet from any rear or side lot line; or iv) 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 to October 15 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 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.

165.22 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

165.23 EXCEPTIONS AND MODIFICATIONS. The regulations specified in this chapter shall be subject to the following exceptions, modifications, and interpretations:

1. 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 the ordinance codified in this chapter 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 30 percent of the width of the lot, but in no case less than 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 20 percent of the depth of the lot, but in no case less than 20 feet.
2. Structures Permitted Above the Height Limit. The building height limitations of this chapter 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.
3. 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 - 20,000 square feet. Lot width at building line - 100 feet; provided, however, that where a public water supply system is available these requirements shall be 15,000 square feet and 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 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.
4. Double-Frontage Lots. Buildings on through lots extending through from street to street shall provide the required front yard on both streets.
5. 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 24 inches, and except for yard recreational and laundry drying equipment, arbors and trellises, flagpoles, yard lights and similar decorative items.
6. 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.
7. 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 10 feet above the centerline grades of the intersecting 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 Section 165.13 - Fences).

165.24 PARKING REQUIREMENTS FOR ALL DISTRICTS.

1. 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. One space for each employee and in no case less than five spaces minimum.
- B. Banks, Business and Professional Offices. One space for each 300 square feet of floor area.
- C. Bed and Breakfasts. One space for each bedroom
- D. Bowling Alleys. Five spaces for each lane.
- E. Churches and Schools. One parking space for every 80 square feet of principal auditorium, including balcony, if any. Where no auditorium is involved, one parking space for each two staff members.
- F. Dance Halls, Assembly Halls. 200 percent of floor area used for dancing or assembly. One space for every 150 square feet of building.
- G. Dwellings. Two parking spaces for each family or dwelling unit.
- H. Funeral Homes, Mortuaries. One parking space for each five seats in the principal auditorium.
- I. Furniture and Appliance Stores, Household Equipment or Furniture Repair Shops. One space for each 200 square feet of sales and display floor area.
- J. Hospitals. One space for each four beds, plus one space for each three employees, plus one space for each two staff doctors.
- K. Hotels, Motels, Lodging Houses. One space for each bedroom.
- L. Manufacturing Plants. One parking space for each three employees on the maximum working shift, but in no case less than one space for each 1,000 square feet of gross floor area.
- M. Nursing, Convalescent, and Retirement Homes. One space per eight beds, plus one space per three employees, plus one space for each resident staff member.
- N. Restaurants, Taverns, and Night Clubs. One space for each 100 square feet of floor area.
- O. Retail Stores, Shops, Supermarkets, etc. Over 2,000 Square Feet Floor Area. One space for each 200 square feet of sales and display floor area.
- P. Retail Stores, Shops, Supermarkets, etc. Under 2,000 Square Feet Floor Area. One space for each 200 square feet of sales and display floor area.
- Q. Theaters, Assembly Halls With Fixed Seats. One space for each five seats.

- R. Wholesale Establishments or Warehouses. One space for each two employees, but in no case less than one space for each 2,000 square feet of gross floor area.
2. 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.
3. 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 10 feet in width in case of a dwelling, and not less than 16 feet in width in all other cases 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.
4. 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 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 10 feet from the "R" District boundary and shall be effectively landscaped and screen planted. All new parking spaces must be a minimum of nine feet by 18 feet and must be a permanent, dust-free surface such as concrete or gravel.
- 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.
5. 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 chapter; 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.

165.25 OFF-STREET LOADING SPACES REQUIRED. In any district, in connection with every building or part thereof hereafter erected having a gross floor area of 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 off-street loading space plus one additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area, so used, in excess of 10,000 square feet.

1. Each loading space shall be not less than 12 feet in width and 40 feet in length.

2. 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 10 feet and be effectively landscaped and screened to visibly shield from adjoining residential properties. Said screening shall be a minimum four feet in height and may utilize walls, fencing, and berms in addition to natural landscape materials such as trees and shrubs. Such screening material shall be designed to provide 75 percent opacity one year after planting for the required height and length of the screening buffer.

165.26 R-1 RESIDENTIAL DISTRICT. The R-1 District (Single Family Dwelling 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.

1. 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 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 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.

2. 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 Subsection 3 below.
- 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 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 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.

3. 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 Section 165.35 of this chapter:

A. Bed and Breakfast

4. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Sections 165.09 through 165.23 of this chapter.

A. Lot Area: Single family dwelling - 7,000 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 feet)

E. Churches and schools - 35 feet on each side

F. Rear Yard: 35 feet

G. Maximum Height: Principal building - 35 feet

H. Accessory building - 12 feet

I. Maximum No. Principal building - 3 stories

J. Of Stories Accessory building - 1 story

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 165.24 and 165.25 of this chapter.

6. Landscaping Requirement. See Section 165.37 of this chapter.

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165.27 R-1A RESIDENTIAL DISTRICT. The R-1A District (Single- and Two-Family Dwelling 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.

1. 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 chapter.

2. Permitted Accessory Uses.

A. Accessory uses permitted in and as limited in the R-1 District.

3. 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 Section 165.35 of this chapter:

A. Bed and Breakfast

4. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Sections 165.09 through 165.23 of this chapter.

- | | | |
|----|-----------------|---|
| A. | Lot Area: | Single-family dwelling - 7,000 square feet |
| B. | | Two-family dwelling - 9,000 square feet |
| C. | Lot Width: | Single-family dwelling - 60 feet |
| D. | | Two-family dwelling - 64 feet |
| E. | Front Yard: | 25 feet |
| F. | Side Yards: | 1 and 1.5 stories: 16 feet |
| G. | | (minimum on one side - 8 feet) |
| H. | | 2 and 3 stories: 20 feet |
| I. | | (minimum on one side - 10 feet) |
| J. | | Churches and schools - 35 feet on each side |
| K. | Rear Yard: | 35 feet |
| L. | Maximum Height: | Principal building - 35 feet |
| M. | | Accessory building - 12 feet |
| N. | Maximum No. | Principal building - 3 stories |
| O. | Of Stories | Accessory building - 1 story |

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 165.24 and 165.25 of this chapter.

6. Landscaping Requirement. See Section 165.37 of this chapter.

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165.28 R-2 RESIDENTIAL DISTRICT. The R-2 District (Multiple-Family Dwelling 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.

1. 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 religious, educational, or philanthropic dwellings.
 - E. Hospitals; nursing, convalescent and retirement homes.
 - F. Private clubs, lodges, or veterans organizations, excepting those holding a beer permit or liquor license.
2. Permitted Accessory Uses.
 - A. Accessory uses permitted in and as limited in the R-1 and R-1A Districts.
3. 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 Section 165.35 of this chapter.
 - A. Bed and Breakfast
4. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Sections 165.09 through 165.23 of this chapter.
 - A. Lot Area:
 - Single family dwelling - 7,000 square feet.
 - Two family dwelling - 8,000 square feet.
 - Multiple-family dwelling or other permitted use - 10,000 square feet.
 - B. Lot Area Per Dwelling Unit:
 - C. Row Housing, Multiple Dwellings – 2,500 square feet.
 - D. Lot width:
 - Single-family dwelling - 60 feet
 - E. Two-family dwelling - 60 feet
 - F. Row housing units - 20 feet
 - G. Multiple-family dwelling; other permitted uses - 80 feet.
 - H. Front Yard: 25 feet.
 - I. Side Yards:
 - 1 and 1½ stories; total side yard - 16 feet
 - J. (minimum on one side - 8 feet)
 - K. 2 and 2½ stories; total side yard - 20 feet
 - L. (minimum on one side - 10 feet)
 - M. 3 stories or more, up to 45 feet; total side yard - 25 feet
 - N. (minimum on one side - 12 feet)

- O. Rear Yard: 35 feet.
 - P. Maximum Height: Principal building - 45 feet.
 - Q. Accessory building - 12 feet
 - R. Maximum No. Principal building - 4 stories
 - S. of Stories: Accessory building - 1 story
5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 165.24 and 165.25 of this chapter.
6. Landscaping Requirement. See Section 165.37 of this chapter.

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165.29 R-3 MOBILE HOME PARK DISTRICT. 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 design and location will be compatible with nearby residential areas.

1. 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 chapter and applicable State statutes.
2. 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 20 square feet.
3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Sections 165.09 through 165.23 of this chapter.
 - 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 acres;
 - (2) Each yard abutting on a public street shall be considered a front yard and shall be a minimum of 50 feet;
 - (3) All other yards, whether side or rear, shall be a minimum of 50 feet when adjacent to any other "R" district and 30 feet when adjacent to a "C" or "I" district;
 - (4) The minimum lot space for each mobile home shall be 4,000 square feet and shall measure at least 50 by 80 feet;
 - (5) Mobile homes shall be located on each space so that there will be at least a 20-foot clearance between each mobile home, a five-foot open space between the mobile home including any permanently enclosed appendage, and any driveway, walkway, or mobile home space boundary; and a 10-foot open space at the rear of the mobile home.
4. 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 chapter. All changes to the R-3 classification shall be made in accordance with the provisions of Section 165.40 of this chapter.

5. 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 Section 165.37 of this chapter.

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165.30 RT-1 RESIDENTIAL TRANSITIONAL DISTRICT. 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.

1. 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.
2. Permitted Accessory Uses.
 - A. Accessory uses and structures customarily incidental to any principal permitted use.
 - B. Accessory uses permitted in the R-1 District.
3. Bulk Regulations.
 - A. As required in Section 165.27(4) of this chapter.
4. Other Provisions.
 - A. Off-Street Parking. Off-street parking shall be provided according to the provisions of Section 165.24 of this chapter.
 - 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. Outdoor sales areas shall be delineated and not impact parking or drive areas.

- D. Open Storage. 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.
5. Landscaping Requirements. See Section 165.37 of this chapter.

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165.31 C-1 CENTRAL BUSINESS DISTRICT. The C-1 District is intended to provide for the general retail shopping of persons living in the City and the surrounding rural areas. The C-1 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.

1. 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.
- (30) Garages for general motor vehicle body repair.
- (31) Gift shops.
- (32) Grocery stores, including supermarkets.
- (33) Hardware stores.
- (34) Hobby shops.
- (35) Hotels and motels.
- (36) Household appliances, sale and repair.
- (37) Jewelry stores and watch repair shops.
- (38) Launderettes, coin-operated dry cleaning establishments, and dry cleaning or pressing establishments using only non-flammable solvents.
- (39) Lawn mower repair shops.
- (40) Locker plant for storage and retail sales only.
- (41) Leather goods stores.
- (42) Liquor stores.
- (43) Music stores and music studios.
- (44) Office buildings.
- (45) Paint and wallpaper stores.
- (46) Pet shops.
- (47) Photographic studios, printing and developing establishments.
- (48) Plumbing and heating shops.
- (49) Post offices.
- (50) Printing and lithographing shops.
- (51) Public auction rooms.
- (52) Radio and television sales and repair shops.
- (53) Restaurants.
- (54) Sheet metal shops.
- (55) Shoe and hat repair shops.
- (56) Sporting goods stores.
- (57) Tailor and dressmaking shops.
- (58) Taverns and nightclubs.

- (59) Theaters.
- (60) Toy stores.
- (61) Upholstering shops.
- (62) Used car sales lots.
- (63) Variety stores.
- (64) 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 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.
- 2. 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 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.
- 3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.23.
 - 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 10 feet.

- E. Rear Yard: None required, except when adjoining any “R”
 - F. district, in which case 25 feet.
 - G. Max Height: 45 feet.
 - H. Max No.
 - I. of Stories 4 stories.
4. Landscaping Requirements. See Section 165.37 of this Chapter.
5. Sign Requirements. The downtown or Central Business District is intended to present a quaint, attractive, and pedestrian friendly character and therefore 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 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 18 inches must be at least 12 feet above the grade and may project a maximum of six feet;
 - (3) No sign shall project more than four 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 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 12 feet above the ground surface upon which it is erected, unless said sign is set back at least 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 12 feet above the ground surface within 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 forth in this chapter.

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165.32 C-2 GENERAL BUSINESS DISTRICT. The C-2 District (General Business 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.

1. 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 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 10 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.

2. 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 building referring 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 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 18 inches must be at least 12 feet above the grade and may project a maximum of six feet;

(3) No sign shall project more than four feet above the roof line or parapet where one exists.

D. One free-standing or post sign referring only to a use 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 200 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 12 feet above the ground surface upon which it is erected, unless said sign is set back at least 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 12 feet above the ground surface within 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.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Sections 165.09-165.23.

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
 - E. "R" District or street right-of-way line,
 - F. in which case 25 feet.
 - G. Rear Yard: 25 feet; provided, however, that for every foot
 - H. the front yard is increased over 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.
 - I. Max Height: 45 feet.
 - J. Max No. of Stories: 4 stories.
4. 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.
5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 165.24 and 165.25 of this chapter.
6. Site Plans. Site plans shall be required in accordance with the provisions of Section 165.36 of this chapter for all uses permitted in this district.
7. Landscape Requirements. See Section 165.37 of this chapter.

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165.33 I-1 LIGHT INDUSTRIAL DISTRICT. The I-1 District (Light Industrial District) is intended and designed to provide areas 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.

1. Principal Permitted Uses. 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.
2. 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.
 3. 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.
 - 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 200 feet from any "R" District.
 - C. All signs shall meet the requirements of the C-2 District regulations.
 - D. All exterior storage must be completely obscured and shall be behind a six foot wood or other approved fence in rear or side yard. No exterior storage allowed in front yard.
 4. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Sections 165.09-165.23.
 - 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 25 feet.
 - C. Rear Yard: 25 feet, provided, however, that for every foot the front yard is increased over 25, 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.
 - D. Max. Height: 50 feet.
 - E. Maximum No. of stories: No limitation.
 3. 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.

4. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 165.24 and 165.25 of this chapter.
5. Site Plans. Site Plans shall be required in accordance with the provisions of Section 165.36 of this chapter for all uses permitted in this district.
6. Landscape Requirements. See Section 165.37 of this chapter.

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165.34 I-2 HEAVY INDUSTRIAL DISTRICT. The I-2 District (Heavy Industrial 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.

1. 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 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 chapter and the Comprehensive Plan of the City.

D. The uses subject to the above provisions are as follows:

(1) Packing houses, slaughter houses or stock yards.

(2) Acid manufacture or wholesale storage of acids.

(3) Anhydrous ammonia storage or pumping facilities.

(4) 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 feet high completely obscuring the activity. There shall be

only one opening in the wall or fence facing any public street for each 200 feet of length.

- (5) Cement, lime, gypsum or plaster of Paris manufacture.
- (6) Distillation of bones.
- (7) Explosive manufacture or storage.
- (8) Fat rendering
- (9) Fertilizer manufacture.
- (10) Garbage, offal, or dead animal reduction.
- (11) Gas manufacture and cylinder recharging.
- (12) Glue, size, or gelatin manufacture.
- (13) 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 feet in height, completely obscuring the activity.
- (14) Petroleum or its products refining or wholesale storage of, and asphalt plants.
- (15) Rubber goods manufacture.
- (16) Sand or gravel pits.
- (17) Smelting of tin, copper, zinc, or iron ores.
- (18) Transmitting stations
- (19) Wholesale storage of gasoline and other flammable liquids.

2. 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 200 feet from any "R" District.
- C. All signs shall meet the requirements of the C-2 District regulations.
- D. All exterior storage must be completely obscured and shall be behind a six foot wood or other approved fence in rear or side yard. No exterior storage allowed in front yard.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.23.

- A. Front Yard: 40 feet.
- B. Side Yards: None required except when adjacent to any
 - C. street right-of-way line, in which case 25 feet.

- D. Rear Yard: 40 feet; except that where a railroad
 - E. right-of-way lies immediately adjacent to
 - F. the rear of the lot, the rear yard
 - G. requirement need not apply.
 - H. Maximum Height: 50 feet.
 - I. Maximum No. of Stories: No limitations.
4. 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.
5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 165.24 and 165.25 of this chapter.
6. Site Plans. Site Plans shall be required in accordance with the provisions of Section 165.36 of this chapter for all uses permitted in this district.
7. Landscape Requirements. See Section 165.37 of this chapter.

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165.35 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.

1. 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 chapter.
 - 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.
2. 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 chapter to promote public health, safety and the general welfare.
3. 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.

165.36 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 or property owner by illustrating and clarifying to City staff, City Council, the Planning and Zoning Commission, Zoning Board of 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.

1. Procedure.

A. Whenever any person, firm, corporation or other group wishes to develop any tract, lot or parcel of land within the City, 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 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 the ordinance codified in this chapter, 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 45 days of the date of the submission of the said site plan. If the Commission does not act within 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.

2. 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.

3. Site Plan Requirements. All site plans shall be drawn at a scale not less than one inch equals 50 feet. Ten 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 chapter.

4. 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.
5. 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 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.

6. Expiration of Approval. All site plan approvals shall expire and terminate 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 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

165.37 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. Landscaping with natural vegetation has been shown to reduce stormwater 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 regulations 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-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-foot wide buffer spaced at no more than 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 chapter. Maintaining site landscaping and the replacement of dead or dying vegetation is required by the property owner as the intent of this chapter is to provide effective landscaping on an ongoing basis.

1. 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.

2. 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 and 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 chapter. The following options shall be considered sufficient to meet the intent of this chapter.

- 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 not 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.

165.38 CELLPHONE TOWERS. The purpose of this section is to allow and regulate the installation of communication transmission facilities within the City limits. In general, said communication transmission facilities shall include cell telephone towers and similar installations. Prior to taking final action on this section, the City Council has followed the procedure required in this chapter 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 section is in the best interest of the City and should be enacted. 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 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 20 feet. 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 163.38(4)(b). 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. Communications towers areas are allowed by special exception in residential districts and must comply with the following approval criteria:

A. 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 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.

B. 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.

C. 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 Zoning Regulations (this chapter), but under no circumstance may the tower be taller than 200 feet 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.

D. 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.

E. 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.

F. 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.

G. The proposed tower must be designed and constructed to accommodate at least one additional user, unless in doing so the tower will exceed the 200-foot 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.

H. 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.

165.39 ADMINISTRATION AND ENFORCEMENT.

1. 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 chapter and shall have the following powers and duties, in connection therewith:

A. The Administrator shall issue all permits and certificates required by this chapter.

B. If the Administrator shall find that any of the provisions of this chapter 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 chapter to insure compliance with or to prevent violation of its provisions.

1. 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.

2. 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 chapter.

A. 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 chapter.

B. Nothing in this part shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless discontinuance is necessary for the safety of life or property.

C. Applications for Certificates of Occupancy shall be applied for coincidentally with the application for a building permit and shall be issued within 10 days after the lawful erection or alteration of the building is completed. A record of all certificates 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.

D. 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.

E. A Certificate of Occupancy shall be required of all nonconforming uses. Application for a certificate for nonconforming uses shall be filed with the Zoning Administrator within 12 months from the effective date of the ordinance codified in this chapter, accompanied by affidavits of proof that such nonconforming use was not established in violation of previous ordinances.

3. 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 chapter. 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.

165.40 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.

1. 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 chapter. Meetings 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 members shall be necessary to constitute a quorum.

2. 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 affected by any decision of the Zoning Administrator. Such appeals shall be taken within 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 \$50.00 to the City Clerk to be credited to the general fund of the City.

3. 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.

4. Board of Adjustment Powers and Duties. The Board of Adjustment shall have the following powers and duties:

A. 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 chapter.

B. 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.

(1) 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.

(2) 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.

(3) 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

chapter, but in no case shall such extension of the district boundary line exceed 30 feet in any direction.

(4) To issue permits and decide and such matters as may be required by other sections of this chapter.

C. Variances: Conditions, Applications, and Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

(1) A written application for a variance is submitted demonstrating:

a. 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;

b. That literal interpretation of the provisions of this chapter would deprive the applicants of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

c. That the special conditions and circumstances do not result from the actions of the applicant;

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) Nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted or nonconforming 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 Subsection C above 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 chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(3) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. 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 chapter and punishable under Section 165.43 of this chapter.

(4) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

5. 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 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 chapter; 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.

A. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.

B. Any taxpayer, or any officer, department, board or bureau of the City, 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 forth that such decision is illegal, in whole or in part specifying the grounds of illegality. Such petition shall be presented to the court within 30 days after the final of the decision in the office of the Board.

165.41 AMENDMENTS AND FEES. 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 by the favorable vote of a majority of all the members of the City Council.

1. Whenever any person, firm or corporation desires that any amendment, or change be made in this chapter, including the text or map, as to any property covered by this chapter, 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 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 50 percent of the area of all real estate lying outside of said tract but within 250 feet of the boundaries thereof, and intervening streets and alleys not to be included in computing such 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.

2. 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.

3. 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 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 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 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 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 filed with or considered by the City Council until one year shall have elapsed from the date of filing of the first petition.

4. Before any action shall be taken as provided in this section, the owners of the property shall complete an application clearly explaining their request. Said applications 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:

A.	Rezoning Fee:	\$200.00
B.	Site Plan Review:	\$150.00
C.	Variance:	\$150.00
D.	Special Use Permit:	\$150.00
E.	Appeal:	\$50.00

165.42 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter 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 chapter.

165.43 PENALTIES FOR VIOLATION. Violation of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 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. Should any sector or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 TITLE. This chapter may be known and cited as the “Durant Subdivision Regulations” and shall be referred to herein as “this chapter.”

166.02 PURPOSE. This chapter 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.

166.03 DEFINITIONS. For the purpose of this chapter certain terms and words are hereby defined.

1. “Administrative Officer” means the City official appointed by the City Council to assist with the administration of this chapter.
2. “Alley” means a public right-of-way, other than a street, 20 feet or less in width, providing a secondary means of access to abutting property.
3. “Arterial street” means 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.
4. “Auditor’s plat” means a plat prepared at the request of the County Auditor to clarify property descriptions for the purposes of assessment and taxation.
5. “Block” means an area of land bounded by streets or public land within a subdivision that is geographically located within a defined area or subdivision.
6. “Building line” means a line designating the allowable proximity of a building to an adjacent street, alley, or property line.
7. “Collector street” means 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.
8. “Commission” means the Planning and Zoning Commission of Durant, Iowa.

9. "Comprehensive Plan" means 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.
10. "Cul-de-sac" means a minor street having one open end and being permanently terminated at the other end by a vehicular turn-around.
11. "Easement" means 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.
12. "Engineer" means the City's Registered Professional Engineer, whether a City employee or retained by the City, for the necessary functions herein defined.
13. "Final plat" means a map or plan of a subdivision, and any accompanying material. The legally recorded plat of record establishing legal lots for sale.
14. "Half street" means 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.
15. "Lot" means 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.
16. "Minor street" means 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.
17. "Pedestrian way" means 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.
18. "Person" means any individual, firm, association, partnership, corporation, trust, or other legal entity.
19. "Planning Administrator" means 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.
20. "Plat" means a map, drawing, plan, or chart of a subdivision.
21. "Preliminary plat" means 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.
22. "Proprietor's plat" means 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.
23. "Protective covenants" means 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.
24. "Statewide Urban Design and Specifications (SUDAS)" means manuals for public improvements, maintained by The Institute for Transportation at Iowa State University. Such improvements include sanitary sewers and water mains, streets and sidewalks, utility locations, signalization, drainage and erosion control, etc.

25. "Street" means a public right-of-way which affords primary means of access by pedestrians and vehicles to abutting properties.
26. "Subdivider" means any person commencing proceedings under this chapter for himself or for another.
27. "Subdivision" means the division of a parcel of land into three 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 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.
28. "Subdivision design standards" means the guides, principles, and specifications for the preparation of subdivision plans.

166.04 PLATS IN UNINCORPORATED AREAS. With regard to subdivisions located in the unincorporated areas of Cedar, Scott, and Muscatine counties within two miles of the corporate City limits, the provisions of this chapter shall apply. The Commission and Council shall have the right to waive such requirements as are contained in this chapter 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. 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 miles of the City and to avoid conflicting regulations while at the same time assuring that provisions are made for proper and orderly future growth of the City.

166.05 PROCEDURE FOR PLAT APPROVAL. The subdivision review process is comprised of a three step process.

1. Step 1 involves an initial meeting with the landowner or developer to discuss with City staff 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 or extend City services to a particular area .
2. 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 166.07, 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.

3. 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 166.08 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 release the financial guarantee and therefor accept responsibility for the improvements from that point forward.

166.06 PRELIMINARY PLAT PROCEDURE. Whenever the owner, or owners, of any tract or parcel of land within the corporate limits of the City, or within two 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 for preliminary study and approval.

1. At least 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 copies of said plat to the Secretary of the Commission and one copy to the City Engineer upon receipt of a preliminary plat.

2. No land shall be approved for subdivision which is subject to periodic flooding or which contains extremely poor drainage facilities. However, if the subdivider 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.

3. The Commission shall notify the owner or subdivider 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 subdivider 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 to 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 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.

4. 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 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 subdivider for compliance with final plat requirements. Approval of the preliminary plat shall confer upon the applicant the following rights for a period of one 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 of said plat for final approval.

166.07 PRELIMINARY PLAT REQUIREMENTS. As stated in Section 166.05, each subdivider 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 12 copies of a preliminary plat to the Commission which shall be drawn to a scale of not less than one inch to 100 feet by a registered engineer and licensed land surveyor and shall show the following:

1. Date, scale, and North arrow.
2. 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.
3. Approximate total area of proposed subdivision.
4. Names and addresses of owner or subdivider of land and the engineer and land surveyor preparing the plat and associated information, including phone numbers for easy contact.
5. Topographic map of the area showing contours as follows: two-foot intervals where slope is seven percent or less; five foot intervals where slope is from seven to 15 percent; 10- or 20-foot intervals where slope is greater than 15 percent. All areas of the subdivision to be platted with a slope of greater than 20 percent shall be clearly indicated.
6. 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 or United States Geological Survey Datum. FEMA flood plain maps should be utilized regarding flood hazard areas.
7. Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land.
8. 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.

9. 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 300 feet of the exterior boundaries thereof.
10. 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 300 feet of the exterior boundaries thereof. Also, the location of gas lines, fire hydrants, electric and telephone lines or poles and street lights.
11. Lengths and bearings of the exterior boundaries of the land being subdivided.
12. 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.
13. Approximate dimensions of all lots including lot size in acres or portion thereof.
14. Approximate radii of all curves and lengths of all tangents.
15. 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.
16. 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.
17. Approximate location of well and site and sanitary treatment facility site. If community water or sanitary treatment facilities are being proposed, the source of domestic water supply, and type of sewage disposal.
18. A feasibility report regarding community water and sewerage facilities where such facilities are to be incorporated in the final plat.
19. Percolation test results, minimum of one per acre, together with soil borings, a minimum of one for every acre to indicate depth to water table and rock formation, when requested by the City Engineer.
20. A soil analysis obtainable from the United States Department of Agriculture, Soil Conservation Service, when requested by the City Engineer.
21. 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.

166.08 FINAL PLAT PROCEDURE. Before consideration of a final subdivision plat, the subdivider shall have installed the improvements required under this Code of Ordinances 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 year after final approval of the plat as provided in Section 166.11.

1. 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 year from the date of preliminary approval. The administrative officer shall refer seven 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 45 days after the date of submission for final approval to the administrative officer.
2. Twelve copies of the final plat along with the application form for final approval shall be submitted to the administrative officer at least 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 subdivider has complied with the requirements of Chapter 171 regarding installation of improvements.
3. 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.
4. 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 vote of the entire membership of the City Council.
5. 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.
6. Approval of the final plat by the City Council shall be null and void if the plat is not recorded within 30 days after date of approval, unless application for an extension of time is made in writing during said 30 day period to the Council, and granted.

166.09 FINAL PLAT REQUIREMENTS. Following preliminary approval, 12 copies of the final plat shall be submitted to the Commission for study and review. Ten 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 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 166.07.

- 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 Regulations in Chapter 165 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.

166.10 SUBDIVISION DESIGN STANDARDS. The following standards shall be applied as minimum requirements for subdivisions within the City. The City has formally adopted and recognizes, by this chapter, 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.

1. 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 125 feet shall be avoided.

G. A tangent at least 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 10 degrees, they shall be connected by a curve with a radius adequate to insure a slight distance of not less than 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 60 degrees. More than two 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 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 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 600 feet except where the Commission has approved a maximum length not to exceed 1,000 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 80 feet and a street property line diameter of at least 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 one-half of one percent where drainage is carried within the traveled roadway.

2. 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 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.

3. 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 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 stormwater 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 subdivider.

4. 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 1,000 feet, or be less than 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.
5. 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 166.11(4)(C) of this chapter 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 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 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 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.
6. 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 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.

7. 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.

166.11 REQUIRED IMPROVEMENTS. Before the final plat of any area shall be approved by the City Council and recorded, the subdivider 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 subdivider shall post a bond, approved by the City Attorney and City Treasurer, with the City, which bond will insure to the City that the improvements will be completed by the subdivider within one 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 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:

1. Street Construction. The subdivider 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 166.10(1)(K).

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 sodded 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 stormwater 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 subdivider. 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.
2. Sidewalk Construction.
- A. The subdivider 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 feet wide and located in the street right-of-way with the outer edge one 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.
3. Water Facilities.
- A. Where a public water main is accessible, the subdivider 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.
4. Sewer Facilities.
- A. Where a public sanitary sewer is accessible, the subdivider 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 subdivider will install the pumping station with all required appurtenances and force main. The subdivider 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 subdivider connects to a sewer leading to a sewage pumping station, he will be required to pay to the City 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 this chapter. The subdivider 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.

5. Stormwater. 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 stormwater as approved by the City Engineer.

A. New developments shall be required to detain the difference in volume of the five-year undeveloped storm and the 100-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 stormwater management shall be preferred method of stormwater detention versus numerous small individual detention facilities. The developer shall bear all construction and maintenance cost of the stormwater detention management facilities unless they are officially dedicated and accepted by the City. Stormwater management is required for all new subdivisions of larger than three acres for residential developments and two acres for commercial and industrial developments.

B. All storm sewer design and construction shall be in accordance with City standards and specifications or per SUDAS as referred to in this chapter.

6. 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. All monuments shall meet the requirements of Section 409.30 of the *Code of Iowa*.

7. Street Trees. Street trees or other plantings within the street right-of-way is prohibited.

8. 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 subdivider 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. 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.

9. Construction. All plans, specifications, installation and construction required by this chapter 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 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 subdivider shall furnish the City Engineer with a construction schedule prior to commencement of any or all construction, and shall notify the engineer not less than 48 hours in advance of readiness for required inspection. The subdivider 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 subdivider 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 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 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.

166.12 VARIANCES AND ADMINISTRATION.

1. 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 chapter. 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.

2. 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.

3. Conditions. In granting variances and modifications, the Council and Commission shall weigh the benefits or hardships against the general standards and objectives of this chapter, and may require such conditions as will secure substantially the objectives of the standards or requirements so varied or modified.

4. Filing Fees. Before a preliminary plat shall be considered by the Commission, the subdivider or his agent shall deposit with the City Clerk a fee of \$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 subdivider or his agent shall deposit with the City Clerk a fee of \$50.00, plus \$10.00 for each lot included in the final plat. A receipt of such filing fee shall be filed with the final plat.

5. Amendments. Any regulations or provisions of this chapter 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 at least 15 days prior to such hearing.

6. Conflict and Validity. Wherever the requirements of this chapter 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 chapter be declared by a court to be invalid, the same shall not affect the validity of this chapter be declared by a court to be invalid, the same shall not affect the validity of this chapter as a whole or the remaining portions of this chapter.

7. 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 chapter 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 the ordinance codified in this chapter unless such subdivision or street has been approved in accordance with the provisions contained herein.

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CHAPTER 171

STORMWATER MANAGEMENT

171.01 Purpose	171.06 Submission and Approval Of Plan
171.02 Definitions	171.07 Ownership By City
171.03 Areas Requiring Stormwater Management	171.08 Private Ownership
171.04 Stormwater Management Requirements	171.09 Further Requirements
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171.01 PURPOSE. It is the purpose of this chapter to establish policies to manage and control stormwater runoff occurring from new development or improvements of residential, commercial, and industrial areas. The goal is to help protect the City's surface waters and quality of life by reducing the negative impacts of sediment, rainfall, melting snow, and other water runoff. In addition increase safety, erosion control and flow reduction into the overall storm sewer collection system.

171.02 DEFINITIONS. Wherever used in this chapter, the terms listed below will have the meanings indicated.

1. "Bio-detention system" means a stormwater management practice incorporating plantings, engineered soil mix to promote infiltration, stone aggregate base layer, and underdrain.
2. "Capacity" means the maximum volume or rate of conveyance available in a storm management facility, including freeboard, to store or convey stormwater without damage to public or private property.
3. "City engineer" means a professional, licensed in the State of Iowa to practice in the field civil works, designated and authorized by the Council to carry out various functions as specified in this chapter.
4. "Design storm" means a storm with depth of rainfall that would occur for the stated return frequency (i.e. once every two years or 10 years) duration (i.e. 24 hours) and timing of distribution. All values are based on historical rainfall records for the area.
5. "Detention basin" means a stormwater management facility designed to protect against flooding and in some cases, downstream erosion by storing water for a limited period of time. Detention basins do not retain a significant permanent pool of water between run off events.
6. "Developer" means any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or any legal entity commencing proceedings under this chapter to effect the development of land.
7. "Development" means the improvement of land from its existing state or an area of land improvement. Also includes construction of buildings, other structures, impervious surfaces, and soil disturbance to the extent that peak runoff rates and volumes are increased in a location where no such features currently exist.
8. "Drainage area" means an area of land contributing to stormwater run-off.

9. “Drainage easement” means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
10. “Erosion” means the process of detachment, transport, and deposition of soil, sediment, or rock fragments by action of water, wind ice, or gravity.
11. “Floodplain” means a flat or nearly flat land adjacent to a stream or river that experiences occasional or periodic flooding.
12. “Impervious surface” means an area that releases all or a large portion of the precipitation that falls on it, except frozen soil. Conventional rooftops, asphalt or concrete driveways, sidewalks, parking lots, and streets are typical examples. Gravel driveways are considered impervious unless specifically designed to encourage infiltration or storage of runoff.
13. “Overflow path” means a path taken by stormwater runoff as a result of flows exceeding the capacity of the underground drainage system or detention basin. The path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property within an easement.
14. “Permeable pavement” means a system of consisting permeable pavers, porous hot mix asphalt, or pervious Portland cement concrete, with storage aggregate and underdrain, designed to manage stormwater.
15. “Pre-developed condition” means hydraulic and hydrologic site characteristics that occur prior to a proposed development, including natural storage areas, drainage ways, drainage tiles, and highway drainage structures.
16. “Regional stormwater management facilities” means facilities designed to handle stormwater runoff from several lots which may include the entire subdivision, or multiple sub divisions, and may include existing developed areas, so long as the facility can hold the required capacity.
17. “Site” means a lot, parcel, or tract of land, or portion thereof, where development is occurring or has occurred and may or may not require additional permits.
18. “Storm sewer system” means facilities for the conveyance of stormwater runoff, a series of conduits and appurtenances to accommodate frequent storms not generating large peak discharges. These facilities usually include conduits, street gutters, and swales.
19. “Stormwater Management Plan” means a site plan, certified by an Iowa licensed engineer, including materials, construction phasing, grading activities, and methods used for mitigation of increased stormwater runoff from the site, approved by the City Engineer.
20. “SUDAS” means the current version of the Statewide Urban Design and Specifications.

171.03 AREAS REQUIRING STORMWATER MANAGEMENT. A Stormwater Management Plan shall be required for:

1. All new residential subdivisions and re-subdivisions larger than two acres in size, and all new commercial and industrial subdivisions and developments of any size. Commercial and industrial development taking place on existing platted lots larger than one-half acre in size, shall comply with this chapter by submitting a Stormwater

Management Plan. Phased developments under two acres for subdivisions as a part of a larger development must comply as well.

2. Other developments may be required to submit a Stormwater Management Plan at the discretion of the City Engineer if topography of the site and planned improvements may have an adverse effect on downstream runoff. No subdivision or development plan will be approved unless adequate drainage will be provided to an appropriate storm sewer, drainage watercourse, or stormwater facility.

171.04 STORMWATER MANAGEMENT REQUIREMENTS. The Stormwater Management Plan shall include, but not be limited to, the following information:

1. Peak discharges for pre-developed and developed conditions based upon the design storms.
2. Individual parameters used for determining discharges shall be listed.
3. Hydraulic capacity of storm sewer inlets, pipes, open channels, or other means of conveying water.
4. Stormwater management facility design with capacity listed.
5. Control structure/outlet design.
6. Review of existing or proposed downstream conveyance capacities.
7. The SCS TR-55 computerized runoff volume program or other technically proven method as allowed by SUDAS shall be utilized for runoff calculations.

171.05 PLAN DESIGN REQUIREMENTS. The design requirements of the Stormwater Management Plan shall include:

1. Development requiring stormwater management shall be required to detain the difference between the five-year pre-developed storm and the 50-year developed storm.
2. The maximum release rate for storms to an expected return frequency of 50 years shall be the five-year pre-developed storm. A safe overflow path shall be designed for storms exceeding the capacity of the detention basin.
3. Regional stormwater facilities preferred.
4. For residential developments, stormwater detention other than individual bio retention is not allowed within any front or side yard setbacks by the Zoning Regulations or within 25 feet from the estimated rear building line.
5. Dry-bottomed detention basins shall be oversized by 10 percent to help offset anticipated sedimentation.
6. Maximum side slopes of the detention basins shall not exceed three and one-half to one.
7. Provisions shall be made to keep bottom of the detention basin dry unless a permanent pond or lake is being utilized for detention.
8. Follow Iowa Standard Management Manual design guidelines for stormwater management practices as applicable.

171.06 SUBMISSION AND APPROVAL OF PLAN. A site plan shall be a required attachment to a proposed Stormwater Management Plan, all of which is to be submitted to the

City Building Inspector and City Engineer for review. The Stormwater Management Plan, including proposed stormwater detention facilities, shall be reviewed and approved by City Council prior to issuance of any building permit for the proposed development. The City may inspect the site at any time to determine compliance with this chapter. Upon determination that a site is not in compliance with this chapter, the City may issue an order to comply. The order shall describe the problems, specify a completion date, and indicate the penalties to be assessed for further noncompliance.

171.07 OWNERSHIP BY CITY. The City is under no obligation to accept ownership of any facility for regional stormwater management. The conditions for City ownership will be reviewed on a case-by-case basis. If the City elects to obtain ownership of the facility, the property owner shall dedicate to the City any property on which public stormwater detention basins will be located. Ingress and egress easements for maintenance of public facilities shall be provided prior to final approval,

171.08 PRIVATE OWNERSHIP. For sites on which privately owned stormwater detention facilities are located, the property owner will be responsible for the following, or deem a housing association, responsible for the following:

1. All future grading, repairs, and maintenance.
2. Maintenance of the minimum stormwater detention capacity, as originally designed.
3. Maintenance of the detention basin contrail structures and discharge pipes to insure the maximum theoretical design release rate is not increased.
4. The property owner shall not pail fill material or erect any buildings, obstructions, or other improvements on the area reserved for stormwater detention purposes, unless approved in writing by the City.

171.09 FURTHER REQUIREMENTS. Compliance with this chapter does not relieve the developer of other responsibilities relating to stormwater discharge. This includes but is not limited to NPDES Stormwater Discharge Permits regulated by the Iowa Department of Natural Resources, and other State and federal requirements.

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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
CITY OF DURANT, IOWA, BY ADDING A NEW SECTION LIMITING
PARKING TO 30 MINUTES ON A PORTION OF
_____ STREET

BE IT ENACTED by the City Council of the City of Durant, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Durant, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. _____ Street, on the _____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DURANT, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Durant, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Durant, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 ___, and approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 ____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DURANT, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

BE IT ENACTED by the City Council of the City of Durant, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Durant, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$_____ per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

**ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____**AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL
DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO
DURANT, IOWA**

Be It Enacted by the City Council of the City of Durant, Iowa:

SECTION 1. The (location or legal description of street or alley) to Durant, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 __, and approved this ____ day of _____, 20 __.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 __.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Durant, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Durant, Iowa, will meet on the ____ day of _____, 20____, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Durant, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Durant, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Durant, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ____ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ____ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Durant, Iowa

By: _____
(designate officer initiating notice)

NOTICE**REQUIRED SEWER CONNECTION**

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Durant, Iowa

By: _____, _____
(Name) (Title)

REQUIRED SEWER CONNECTION

You are hereby notified that the City Council of Durant, Iowa, will meet on the ____ day of _____, 20____, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER
REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Durant, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on
_____,
(Name of Property Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ____ day of _____, 20__.

Mayor

ATTEST:

City Clerk

CITY OF DURANT, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: _____ APPLICATION NO.: _____ FEE: _____

Applicant _____
Address _____

Tel. No. (Bus.) _____ (Res.) _____

FOR OFFICE USE ONLY

____ FEE PAID
____ PLOT DIAGRAM SUBMITTED
____ PLAN SUBMITTED
____ APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS _____

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: _____

PRESENT USE: _____

PROPOSED USE: _____

A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.

I have read Chapter _____ of the Code of Ordinances of Durant, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

(Applicant's Signature)

CITY OF DURANT, IOWA

BUILDING/LAND USE PERMIT

PERMIT NO. _____ (Date)

APPLICATION NO. _____
(Date of Application)

LOCATION _____

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER ____,
“BUILDING AND LAND USE REGULATIONS” OF THE CODE OF ORDINANCES OF
DURANT, IOWA.

APPROVED BY COUNCIL _____ (Date)

THIS PERMIT ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

CITY OF DURANT, IOWA

APPLICATION FOR A CERTIFICATE OF OCCUPANCY

DATE _____ APPLICATION NO. _____

APPLICATION NO. OF BUILDING/LAND USE PERMIT _____

APPLICANT: _____

ADDRESS: _____

TELEPHONE NO. (Business) _____
 (Home) _____

Signature of Applicant

Signature of Building Official

CITY OF DURANT, IOWA

CERTIFICATE OF OCCUPANCY

NO. _____

☐ PERMANENT

☐ TEMPORARY

DATE: _____

C.O. APPLICATION NO. _____

BUILDING/LAND USE PERMIT NO. _____

DATE ISSUED: _____

LOCATION _____

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER
_____ OF THE CODE OF ORDINANCES OF _____, IOWA,
AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

THIS CERTIFICATE ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official



City of Durant
402 6th Street PO Box 818
Durant IA 52747-0818
Phone (563) 785.4451
Fax (563) 785.6809
Building Inspector Terry Goerdt

PHOTOVOLTAIC SYSTEMS

This form must be submitted with the Permit Application

PV WORKSHEET – STANDARD STRING ARRAY

Solar photovoltaic (PV) systems have widely gained acceptance as an alternative energy source and installations range from the small array supplying a bus stop luminaire to a large array that covers acres. Since each installation comes with its own characteristics this worksheet has been provided for the installer to complete and submit with a Solar Photovoltaic (PV) Permit Application. With this information in advance the inspector can get a good idea of what the project entails and perhaps warn the installer of an electrical code issue before the installation is complete. The entire PV system installation shall comply the Article titled Solar Photovoltaic (PV) System in the currently adopted National Electrical Code (NEC).

The following documentation must be provided with the PV Permit Application:

1. Pages 2 and 3 of this document
2. Equipment spec/cut sheets for grounding/bonding fittings, modules, inverters, micro inverters, or optimizers (if these are not available complete page 4 of this document)
3. A one-line diagram of the PV system including service interconnection
4. A site plan showing the relative location of the array and the PV equipment on the property. Also provide location of service and distance from array.
5. Roof mounted arrays shall have engineering certifying the existing roof will support the imposed load.
6. Roof mount and Ground mounted arrays shall be engineered to withstand 125 mph wind load.

A PV installer is allowed to construct the support system, mount the modules, inverters or optimizers, and connect the factory provided module wiring harness (plug and play). The remainder of the installation such as panel boards, raceways, boxes, fittings, breakers, and building wire shall be installed by a licensed electrical contractor.

STANDARD STRING ARRAY

PV SYSTEM INFORMATION

TYPE OF ARRAY					
Y			N		
Roof Array?	<input type="checkbox"/>	<input type="checkbox"/>	Rapid Shutdown Required (690.12)?	<input type="checkbox"/>	<input type="checkbox"/>
Ground Array?	<input type="checkbox"/>	<input type="checkbox"/>	Guarding of Conductors Required (690.31A)?	<input type="checkbox"/>	<input type="checkbox"/>

PV SYSTEM OVERVIEW	
Maximum System Voltage	
# Modules/String	
# Strings in System	
Maximum Circuit Current	
Battery Storage? Y N	

LOAD SIDE CONNECTION ¹	
Service Voltage	
Service Panel Main Breaker	
Service Panel Bus Rating	
Service Conductor Size	
PV System OCPD ² Rating	

CALCULATIONS:

MAXIMUM SYSTEM VOLTAGE – 690.7(A);

$(V_{oc}) (\text{module label}) \times \text{Thermal Coefficient}^3 \times \# \text{ of modules/string} = V_{MAX}$

MAXIMUM CIRCUIT CURRENT - 690.8(A)(1):

$(I_{sc})(\text{module label}) \times (\text{Sum of the paralleled modules}) \times 125\% = I_{MAX}$

OVERCURRENT DEVICE RATING – 690.9(B):

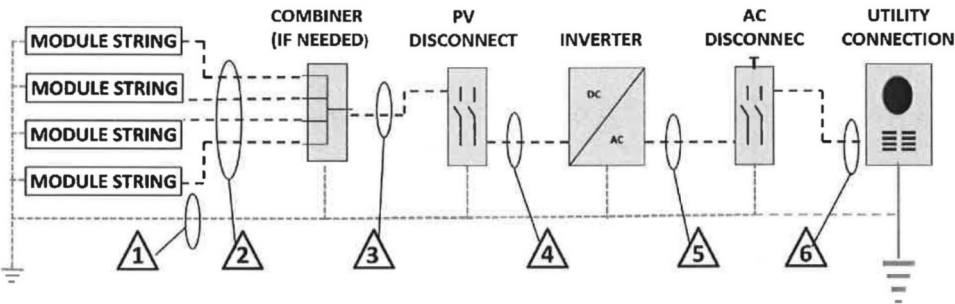
$(I_{max}) \times 125\% = \text{OCPD}^2$


¹Supply side connections may be allowed by your utility and shall comply with 705.12(A)

²OCPD – Overcurrent Protective Device

STANDARD STRING ARRAY

CONDUCTOR AND RACEWAY SCHEDULE



	Conductor Type	Conductor AWG	Conduit Type	Conduit Size
1	Copper Grounding Electrode Conductor Copper Equipment Grounding Conductor	.	NA	NA
2	PV Source Conductors USE-2 PV Wire	.	NA	NA
3	THWN-2 XHHW-2 RHW-2	.	.	.
4	THWN-2 XHHW-2 RHW-2	.	.	.
5	THWN-2 XHHW-2 RHW-2	.	.	.
6	THWN-2 XHHW-2 RHW-2	.	.	.

STANDARD STRING ARRAY

COMPONENT RATINGS

PV MODULE RATINGS

Module Name

Module Model

Open Circuit Voltage

Short Circuit Current

Maximum Power

Maximum Voltage

Thermal Coefficient³

INVERTER RATINGS

Inverter Name

Inverter Model

Maximum DC Volt Rating

Maximum Power at 40°C

Nominal AC Voltage

Maximum AC Current

Maximum OCPD2

³Use thermal coefficient as provided by manufacturer. If not provided, use 1.20. (690.7)

Project Information

Contractor name

Project address

PV system information

Type of array

Roof Array ☐ Yes ☐ No

Rapid Shutdown Required (690.12)? ☐ Yes ☐ No

Ground Array? ☐ Yes ☐ No

Guarding of Conductors Required (690.31A)? ☐ Yes ☐ No

PV system overview

Maximum system voltage

Number of modules/string

Number of strings in system

Maximum circuit current

Battery storage ☐ Yes ☐ No

Load side connection**

****Supply side connections may be allowed by your utility and shall comply with 705.12(A)**

Service voltage

Service panel main breaker

Service panel bus rating

Service conductor size

PV system Overcurrent Protective Device (OCPD) rating

Conductor and Raceway Schedule

conductor type

See diagram on Standard String Array page.

1a. Copper grounding electrode conductor

(provide conductor AWG)

1b. Copper equipment grounding conductor

(provide conductor AWG)

2. PV source conductors

Select conductor type ☐ USE-2 ☐ PV Wire

Indicate conductor AWG

3. Conductor type

Select one ☐ THWN-2 ☐ XHHW-2 ☐ RHW-2

Indicate conductor AWG

Indicate conduit type

Indicate conduit size

Residential Roof Mounted Solar Photovoltaic (PV) System Verification Form



Project Address: _____

Owner: _____

Installer: _____

Required Documentation for Permit Submittal. Answer the questions below to verify whether engineering is required. Submit this form in association with all residential roof-mounted solar system applications.

1. Is the roof supporting the installation a pitched roof in good condition, without visible sag, cracking or splintering of support, or another potential structural defect ?
☐ Yes ☐ No
2. Is the roof framing composed of an engineered truss system?
☐ Yes ☐ No
3. Is the equipment to be flush-mounted to the roof such that the collector surface is parallel to the roof slope ?
☐ Yes ☐ No
4. Is the roofing type lightweight, such as asphalt shingles or metal?
☐ Yes ☐ No
5. Does the roof have a single-layer roof covering?
☐ Yes ☐ No
6. Are the solar panels less than 5 pound per square foot?
☐ Yes ☐ No

If answering NO to any of the questions above, additional documentation is required in the form of a statement stamped by an Iowa-licensed structural engineer. The documentation will need to demonstrate the structural integrity of the roof and all necessary structural modifications needed to maintain integrity. The undersigned applicant confirms that the foregoing information is true and correct:

Applicant's Signature: _____ Date: _____