

CHAPTER 1

CODE OF ORDINANCES

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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Van Meter, Iowa, 2007.

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 Van Meter, Iowa.
3. "Clerk" means the city clerk of Van Meter, 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 Van Meter, Iowa, 2007.
6. "Council" means the city council of Van Meter, Iowa.
7. "County" means Dallas 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means the ordinances of the City of Van Meter, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 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 all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

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

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

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

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CHAPTER 2

CHARTER

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

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

2.01 PURPOSE AND TITLE. The purpose of this chapter is to provide for a charter embodying the form of government existing on April 9, 1973. This chapter may be cited as the charter of the City of Van Meter, Iowa.

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$750.00
 - B. Each Repeat Offense – Not to exceed \$1,000.00

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

5.12 RESIDENCY REQUIREMENT. The following City employees, as an express condition of employment, shall be subject to the residency requirements set forth below, and shall have six months from the date of their employment to comply with this requirement:

- a. The Police Chief, Fire Chief, and Public Works Director shall be required to live within the corporate limits of the City of Van Meter;
- b. Emergency Responders and Public Works personnel, other than those in the above subparagraph (a), shall reside within the corporate limits of the City of Van Meter or within the Van Meter Fire District; and
- c. Other City employees, including but not limited to, the City Administrator, City Clerk, Library Director, and Library employees shall not be subject to City residency requirements.

Upon written application, the City Council shall have discretion to determine whether the Fire Chief under paragraph (a), above, or Emergency Responders under paragraph (b) shall be relieved from the residency requirements under this section.

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CHAPTER 6
CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10)

nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

2. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: the Mayor, Mayor Pro Tem, City Administrator, and Deputy City Clerk, following Council approval, except as provided by subsection 5 hereof.

3. 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.

4. 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.

5. 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)

CHAPTER 8
URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
94	February 25, 1991	Van Meter Urban Renewal Area
155	October 14, 2002	2002 Addition to Van Meter Urban Renewal Area
166	December 13, 2004	2004 Addition to Van Meter Urban Renewal Area

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CHAPTER 9
URBAN REVITALIZATION

EDITOR'S NOTE

Ordinance No. 186, adopted May 8, 2006, designated the Van Meter Urban Revitalization Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1. Mayor Pro Tem
- 2. Police Chief
- 3. Library Board of Trustees
- 4. Parks and Recreation Board
- 5. Building Official
- 6. Director of Public Works and Utilities

15.04 COMPENSATION. The salary of the Mayor is two thousand dollars (\$2,000.00) per year, plus thirty dollars (\$30.00) for every Council meeting attended.
(Code of Iowa, Sec. 372.13[8])

15.05 VOTING. The Mayor is not a member of the Council and shall not vote as a member of the Council.
(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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, Sec. 26.10)

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. The regular meetings of the City Council are held on the second Monday of each month. The time for the regular meeting shall be determined by the Council at the preceding regular meeting.
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 Administrator
2. City Attorney
3. Planning and Zoning Commission
4. Zoning Board of Adjustment
5. Zoning Administrator

17.06 COMPENSATION. The salary of each Council member is twenty-five dollars (\$25.00) for each meeting of the Council attended.

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

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CHAPTER 18

CITY CLERK

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

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

18.01 APPOINTMENT. The City Administrator is ex officio City Clerk and has the duties, powers and functions prescribed in this chapter, by State law and other ordinances of the City.

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

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.

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

2. Manner of Publication. The three public places where public notices, ordinances, notices of elections and other matters permitted to be posted are to be displayed are:

Bank Lobby Bulletin Board
Post Office
City Hall

The Clerk is hereby directed to post promptly such ordinances, notices or other proceedings and to leave them so posted for not less than ten (10) days after the first

date of posting. Unauthorized removal of the posted matter prior to the completion of the ten days shall not affect the validity of said ordinance, notice or other proceedings. The Clerk shall note the first date of such posting on the official copy of such notice, proceedings or the ordinance and in the official ordinance book immediately following the ordinance.

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the following duties relating to elections and nominations:

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election.

(Code of Iowa, Sec. 376.6)

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.

(Code of Iowa, Sec. 376.4)

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.

(Code of Iowa, Sec. 376.4)

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

(Code of Iowa, Sec. 376.4)

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than 5:00 p.m. on the day following the last day on which nomination petitions can be filed.

(Code of Iowa, Sec. 376.4)

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents
20.09 Representation of City Employees

20.01 APPOINTMENT AND COMPENSATION. At its first meeting in January of each year the Council shall appoint by majority vote a City Attorney to serve for a term of one year. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20.09 REPRESENTATION OF CITY EMPLOYEES. The City Attorney shall not appear on behalf of any City officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the Council, appear to defend any City officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

(Code of Iowa, Sec. 670.8)

CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment and Compensation
21.02 Administrative Responsibility

21.03 Powers and Duties Generally

21.01 APPOINTMENT AND COMPENSATION. At its first meeting in January of each year the Council shall appoint by majority vote a City Administrator to serve for a term of one year. The City Administrator shall receive such annual salary as the Council shall establish by resolution.

21.02 ADMINISTRATIVE RESPONSIBILITY. The City Administrator is directly responsible to the Council for the administration of municipal affairs as directed by that body. All departments of the City, except the City Attorney and Police Chief, shall report and be responsible to the City Administrator. All departmental activity requiring the attention of the Council shall be brought before the Council by the City Administrator and all Council policy concerning administration shall be coordinated through the City Administrator.

21.03 POWERS AND DUTIES GENERALLY. The powers and duties of the City Administrator include the following:

1. Keep the Mayor and Council informed by collecting, analyzing and summarizing information; remain accessible, answer questions and provide information for special requests to ensure smooth operation of the City.
2. Develop and recommend an annual budget; discuss the budget with the Council, Mayor and other staff; finalize the budget for submission with the State after Mayor and Council action.
3. Develop and recommend administrative policies and procedures required to manage City programs and resolve operational problems by analyzing a variety of information including City Code, State Code, Federal requirements or other jurisdictions' policies and procedures and make recommendation for solutions.
4. See that all laws, ordinances, resolutions, Council and Mayor directives and approved operational policies are either appropriately enforced and executed or referred to the proper official for compliance therewith.
5. Document, coordinate, calculate and supervise obtaining payments for City bills; install and maintain City billing system. Determine what billing system will be used and train others in its operation.
6. Collaborate with program managers in organizational or financial management matters affecting City management; evaluate and resolve operational problems; regularly attend City planning and policy making management meetings and make recommendations and provide advisory services.
7. Be responsible for the supervision and performance of all contracts for work and services to be done for the City, except as specified otherwise in the construction or service program involved.

8. Maintain an accounting of all obligations, agreements, commitments and contractual franchises involving the City and report to the Mayor and Council any deviations from the exact terms specified.
9. Be authorized to direct the purchasing of all commodities, materials, supplies, capital outlay and services for all departments of the City that have been budgeted and appropriated by resolution of the Council, and enforce a program to determine that such purchases are received and are of the quality and character called for in the order.
10. Coordinate City projects and keep Council informed of actions required by Council. Prepare agenda or supervise its preparation and attend all Council meetings; provide meeting coordination and needed assistance to the Council, Board of Adjustment and Planning and Zoning Commission to assure smooth meeting operation.
11. Schedule budget expenditures, analyze expenses and develop regular reports; suggest variances and transfers; initiate corrective actions as required; anticipate long-term financial issues in order to maintain adequate City finances.
12. Maintain a good working relationship with citizens, community groups, other cities, League of Municipalities, and other State, Federal or local groups; attend meetings when necessary; provide citizen communication through newsletters and informational letters; and participate in special studies regarding City issues in order to implement and enhance effective City services.
13. Coordinate administration of programs and staff assignments; communicate City policy to employees, relay direction from Mayor and Council; relay information from City Attorney and Engineer to staff as required; serve as City contact person for purchasing, project coordination and general management information.
14. Serve in a variety of roles including Clerk and/or Clerk/Treasurer and Chief Financial Officer, Billing Supervisor, Cemetery Commissioner, Zoning Administrator, Records Coordinator and handle City correspondence and mail.
15. Perform such other duties as directed by the Mayor or Council.

CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library	22.07 Nonresident Use
22.02 Library Trustees	22.08 Expenditures
22.03 Qualifications of Trustees	22.09 Annual Report
22.04 Organization of the Board	22.10 Injury to Books or Property
22.05 Powers and Duties	22.11 Theft
22.06 Contracting with Other Libraries	22.12 Notice Posted

22.01 PUBLIC LIBRARY. The public library for the City is known as the Van Meter Public Library. It is referred to in this chapter as the Library.

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of four resident members and one nonresident member. All members are to be appointed by the Mayor with the approval of the Council.

22.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of eighteen (18) years.

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

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.

4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

22.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure to Return. Failure to return Library materials for two months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to

the public in the City, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

(Code of Iowa, Sec. 392.1)

CHAPTER 24

PARKS AND RECREATION BOARD

24.01 Parks and Recreation Board Created
24.02 Board Organization

24.03 Reports
24.04 Rules

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 also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

24.02 BOARD ORGANIZATION. The Board shall consist of seven members, appointed by the Mayor with the approval of the Council, for overlapping terms of five years. Preference for appointment shall be given to residents of the City, but the City will also allow individuals residing within the Van Meter School District to be appointed. No more than three positions shall be occupied by individuals living outside the City of Van Meter.

Every two years the Board shall choose from its membership a Chairperson and Vice Chairperson. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

(Ch. 24 - Ord. 221 – Jun 13 Supp.)

24.03 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 in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the council.

24.04 RULES. The Board has the power to make rules and regulations for the use of parks 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. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

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CHAPTER 30

POLICE DEPARTMENT

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

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

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

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

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

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

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

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

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

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

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

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
(Code of Iowa, Sec. 321.266)
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.
(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.
(Code of Iowa, Sec. 804.18)

30.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.
(Code of Iowa, Sec. 28E.30)

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CHAPTER 35

FIRE DEPARTMENT

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

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

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.
3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

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

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

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

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

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

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

35.12 MUTUAL AID. The Council shall be the sole body with authority to enter into mutual aid agreements and/or contracts with neighboring municipalities and townships for the furnishing of fire related services during emergencies or otherwise. The Council shall also establish rules governing aid to areas not covered by such agreements. The department shall be bound by such agreements and rules.

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

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

(Code of Iowa, Sec. 100.41)

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

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

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

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

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

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

41.12 FIREWORKS. The sale, use or exploding of fireworks within the City is subject to the following:

1. Definition. The term "fireworks" includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance.

(Code of Iowa, Sec. 727.2)

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: \$250,000 per person.
- B. Property Damage: \$50,000
- C. Total Exposure: \$1,000,000
(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

41.13 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

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

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

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

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

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Use of Skateboards and Similar Devices Prohibited

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 USE OF SKATEBOARDS AND SIMILAR DEVICES PROHIBITED.

1. The riding or use of skateboards and similar devices is prohibited in or on any part of public streets, sidewalks or parking areas on Wilson Street from the north side of Main Street to the railroad right-of-way and on Grant Street from the west side of West Street to the east side of Cross Street.
2. No person upon a skateboard or similar device shall operate or use such on any work of art, sculpture or monument or on any planter, free-standing flower or tree box, flower bed or garden, fountain or park equipment, nor shall such devices be used on any public stairway or access ramp built for use by the disabled or other people. No such devices shall be used on any area designed and used for public seating in an amphitheater or similar area.

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CHAPTER 43

RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

43.01 Definitions

43.02 Residency Restriction

43.03 Residency Exception

43.04 Violations

43.01 DEFINITIONS. As used in this chapter and unless the context otherwise requires:

1. “Aggravated offense” means a conviction for any of the following offenses against a minor:
 - A. Sexual abuse in the first degree in violation of Code of Iowa § 709.2.
 - B. Sexual abuse in the second degree in violation of Code of Iowa § 709.3.
 - C. Sexual abuse in the third degree in violation of Code of Iowa § 709.4(1).
 - D. Lascivious acts with a child in violation of Iowa Code Section 709.8(1).
 - E. Assault with intent to commit sexual abuse in violation of Code of Iowa § 709.11.
 - F. Burglary in the first degree in violation of Code of Iowa § 713.3(1)(d).
 - G. Kidnapping, if sexual abuse as defined in Code of Iowa § 709.1 is committed during the offense.
 - H. Murder, if sexual abuse as defined in Code of Iowa § 709.1 is committed during the offense.
 - I. Criminal transmission of human immunodeficiency virus in violation of Code of Iowa § 709C.1(1)(a).
2. “Child care facility” means any child care center, preschool or registered child care homes.
3. “Criminal offense against a minor” means any of the following criminal offenses or conduct:
 - A. Kidnapping of a minor, except for the kidnapping of a minor in the third degree committed by a parent.
 - B. False imprisonment of a minor, except if committed by a parent.
 - C. Any indictable offense involving sexual conduct directed toward a minor.
 - D. Solicitation of a minor to engage in an illegal sex act.
 - E. Use of a minor in a sexual performance.
 - F. Solicitation of a minor to practice prostitution.

- G. Any indictable offense against a minor involving sexual conduct with the minor.
 - H. An attempt to commit an offense enumerated in this subsection.
 - I. Incest committed against a minor.
 - J. Dissemination and exhibition of obscene material to minors in violation of Code of Iowa § 728.2.
 - K. Admitting minors to premises where obscene material is exhibited in violation of Code of Iowa § 728.3.
 - L. Stalking in violation of Code of Iowa § 708.11(3)(b)(3), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.
 - M. Sexual exploitation of a minor in violation of Code of Iowa § 728.12.
 - N. Enticing away a minor in violation of Code of Iowa § 710.10(1).
 - O. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs A through N.
4. “Other relevant offense” means any of the following offenses:
- A. Telephone dissemination of obscene materials in violation of Code of Iowa § 728.15.
 - B. Rental or sale of hard-core pornography in violation of Code of Iowa § 728.4.
 - C. Indecent exposure in violation of Code of Iowa § 709.9.
 - D. Incest committed against a dependent adult as defined in Code of Iowa § 235B.2 in violation of Code of Iowa § 726.2.
 - E. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs A through D if committed in this State.
5. “Park” means any public or non-public park, including a park, forest preserve or conservation area under the jurisdiction of the State, a unit of local government, or a private homeowner’s association, and any facilities thereon, as well as any playground, which for the purposes of this chapter means a piece of land owned or controlled by the State, a unit of local government or a private entity, that has been designated by said entity for the use solely or primarily for children’s recreation (e.g., youth league baseball, youth softball, youth soccer).
6. “Person” means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.
7. “Residence” means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.
8. “Sexually violent offense” means any of the following indictable offenses:
- A. Sexual abuse as defined under Code of Iowa § 709.1.

- B. Assault with intent to commit sexual abuse in violation of Code of Iowa § 709.11.
- C. Sexual misconduct with offenders in violation of Code of Iowa § 709.16.
- D. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
- E. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs A through D if committed in this State.

43.02 RESIDENCY RESTRICTION. A person shall not reside within two thousand (2,000) feet of the real property comprising any of the following child-oriented facilities:

1. A public or non-public elementary or secondary school;
2. A public or non-public park or playground;
3. A public swimming pool;
4. A public library;
5. A multi-use recreational trail; or
6. A child care facility.

The distance of 2,000 feet shall be measured from the closest boundary line of the residence to the closest boundary line of the child-oriented facility as identified above.

43.03 RESIDENCY EXCEPTION. A person residing within 2,000 feet of the real property comprising a child-oriented facility identified in Section 43.02 does not commit a violation of this chapter if any of the following apply:

1. The person has established a residence prior to the effective date of this chapter.
2. A child-oriented facility as identified in Section 43.02 is newly located on or after the effective date of this chapter and the person has established a residence prior to the date of the start of construction, operation or acquisition of such newly located child-oriented facility.
3. The person is a minor or ward under a guardianship.

43.04 VIOLATIONS. Any person who resides within 2,000 feet of a child-oriented facility identified in Section 43.02 in violation of this chapter shall be guilty of a simple misdemeanor punishable by fine or imprisonment as provided by Section 1.14 of this Code of Ordinances or shall be guilty of a municipal infraction punishable by a civil penalty as provided by Section 3.03 of this Code of Ordinances.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *(See Section 62.07 of this Code of Ordinances.)*

CHAPTER 46

MINORS

46.01 Curfew

46.02 Minors in Liquor Establishments

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 which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - C. "Minor" means any unemancipated person under the age of eighteen (18) years.
 - D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited

commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 6:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of 12:00 midnight and 6:00 a.m. on Friday and Saturday.

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-half hour after the end of work;
 - (2) Minor's place of religious activity or, if traveling, within one-half hour after the end of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one-half hour after the end of the activity;
 - (4) School activity or, if traveling, within one-half hour after the end 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 non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

- 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 peace 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.

46.04 MINORS IN LIQUOR ESTABLISHMENTS.

1. Minors are prohibited from entering any place of business that sells beer or alcoholic beverages for consumption on premises except when accompanied by a parent or legal guardian; and even when accompanied by a parent or legal guardian no minor shall remain in such place of business after 8:00 p.m.

2. It is unlawful for the owner, operator, manager or any employee of such business, or the parent or legal guardian of any minor, to allow or permit a minor to enter any place of business that sells beer or alcoholic beverages for consumption on premises in violation of this section.

3. The owner of a business that sells beer or alcoholic beverages for on premise consumption may apply for an exemption from the provisions of this section if more than fifty percent (50%) of the business receipts of such business are from the sale of food. The application for the exemption shall be made to the Council annually when application for the renewal of a liquor control license or beer permit is made. The applicant shall have the burden of showing by competent evidence that the business qualifies for exemption from the regulations of this section.

(Ch. 46 - Ord. 223 – Jun. 13 Supp.)

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Littering
47.05 Camping

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

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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 Notice to Abate: Contents
50.07 Method of Service

50.08 Request for Hearing
50.09 Abatement in Emergency
50.10 Abatement by City
50.11 Collection of Costs
50.12 Installment Payment of Cost of Abatement
50.13 Failure to Abate

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.08)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes or fly ash.

9. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

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

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

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

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Storage and Disposal of Solid Waste **(See Chapter 105)**
3. 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 the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice. †

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

50.06 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

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

4. Reasonable Time. A reasonable time within which to complete the abatement.

5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

50.07 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])

50.08 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.

50.09 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

50.10 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])

50.11 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])

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

50.13 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.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within:

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the 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 seven (7) 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 CONTROL

52.01 Scope of Regulations

52.02 Definitions

52.03 Noise Disturbance Prohibited

52.04 Included Sounds

52.05 Excluded Sounds

52.06 Sound Equipment Permit

52.07 Other Laws and Ordinances

52.01 SCOPE OF REGULATIONS. This chapter applies to the control of all noise originating within the limits of the City, except in the following cases: (a) a State or Federal agency has adopted a different standard or rule than that prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or (b) the Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the residents of the City.

52.02 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. “Application” means the application discussed in Section 52.06 of this chapter.
2. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
3. “Emergency work” means any work performed for the purpose of alleviating or resolving an emergency.
4. “Motorcycle” means any two or three-wheeled motor vehicle.
5. “Motor vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. (Note: “motor vehicle” includes most motorcycles.)
6. “Noise” means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
7. “Noise disturbance” means those sounds defined as “noise disturbances” in Section 52.04 of this chapter which have not otherwise been excepted and excluded from said Section 52.04 under any of Sections 52.01(b), 52.05 or 52.06 of this chapter.
8. “Powered model vehicle” means any self-propelled airborne, waterborne or land-borne model plane, vessel or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car or rocket.
9. “Public right-of-way” means the traveled portion of any street or alley or similar place which is owned or controlled by the City or other governmental entity.

10. “Real property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property division.

11. “Recreational vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways is deemed a “motor vehicle” (or “motorcycle” if two or three-wheeled) and not a “recreational vehicle.” (Examples of recreational vehicles are a snowmobile, ATV, minibike, stock car or motorboat.)

12. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

13. “Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

14. “Sound equipment” means any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, “sound equipment” does not include (a) sirens and other equipment used to alert persons to the existence of an emergency, (b) equipment used by law enforcement and other public safety officials in the performance of their official duties, (c) church carillons, bells or chimes, (d) mobile radio or telephone signaling devices and (e) automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than fifty (50) feet from such automobile or truck.

52.03 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make or continue or cause or allow to be made or continued any noise disturbance within the City.

52.04 INCLUDED SOUNDS. Except for sounds excluded under any of Sections 52.01(b), 52.05 or 52.06 of this chapter, the term “noise disturbance” means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety or health of a human being or disturbs a reasonable human being of normal sensitivities or causes or tends to cause an adverse physiological or physical effect on human beings or devalues or injures property.

2. Selling by “Hawking” or “Barking.” The sound of selling by shout or outcry when made within the area of the City zoned residential or commercial.

3. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing or handling of boxes, crates, containers, building materials or similar objects between the hours of 9:00 p.m. and 7:00 a.m. within any area of the City zoned residential. The sound made by the outdoor loading, unloading, opening, closing or handling of trash cans, trash containers, trash receptacles, trash dumpsters or similar objects which is received between the hours of 9:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

4. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying or testing of a motor vehicle or recreational vehicle which is received between the hours of 7:00 p.m. and 7:00 a.m. at the real property boundary of residential property.
5. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 7:00 p.m. and 7:00 a.m. at the real property boundary of residential property.
6. Musical Instruments. The sound made by a drum, horn, reed instrument, string instrument or other musical instrument or device which is received between the hours of 9:00 p.m. and 7:00 a.m. at the real property boundary of residential property.
7. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private property or on City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of 9:00 p.m. and 7:00 a.m. at the real property boundary of residential property; provided, however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a noise disturbance unless made so by some provisions of this section other than this subsection 7.
8. Construction Noise. The sound made by tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of 9:00 p.m. and 6:00 a.m. at the real property boundary of residential property.
9. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, if plainly audible from any public right-of-way within the City unless the person using, operating or causing to be used or operated the sound equipment possesses a current sound equipment permit and the actual use or operation of such sound equipment is not inconsistent with the statements made in the application or the conditions imposed in the sound equipment permit.
10. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right-of-way during any racing event or time trial, whether organized or unorganized.
11. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle in areas of the City zoned residential or commercial.
12. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system has been modified by the installation of a muffler cut-out or bypass or the sound made by such vehicle whose exhaust system emits an excessive or unusual sound as compared to the sound emitted by its original exhaust system, whether caused by modification, substitution, age, injury or deterioration of its original exhaust system. For the purposes of this section the sound made by a vehicle's original exhaust system may be determined by the observation of the sound made by the original exhaust system of another similar vehicle.
13. Animal or Bird Noises. The frequent or habitual sound made by a domesticated animal or bird, other than livestock owned or possessed for agricultural purposes, which is received any time at the real property boundary of residential property.

52.05 EXCLUDED SOUNDS. Any other provision of Section 52.04 or other section of this chapter to the contrary notwithstanding, the term “noise disturbance,” as used in this chapter, does not mean or include the following sounds:

1. Lawn and Garden Equipment. The sound emitted by motor-powered muffler-equipped lawn and garden equipment operated between the hours of 7:00 a.m. and 9:00 p.m.
2. Chain Saws. The sound emitted by motor-powered tree-trimming equipment operated between the hours of 7:00 a.m. and 9:00 p.m.
3. Snow Removal Equipment. The sound emitted by motor-powered, muffler-equipped snow removal equipment operated between the hours of 5:00 a.m. and 11:00 p.m. and the sound emitted by City-owned or hired snow removal equipment.
4. Emergencies. The sound emitted in the performance of emergency work or to alert persons to the existence of an emergency.
5. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purpose or for the essential testing of such device.
6. Church Bells. The sound emitted by church carillons, bells or chimes.
7. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or player or other such standard equipment used and intended for the use and enjoyment of such vehicle’s occupants while such vehicle is on the public right-of-way, provided that the sound emitted therefrom is not audible for more than fifty (50) feet.
8. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.
9. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.
10. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.
11. Construction Noise. The sound emitted by construction work (erection, demolition, excavation, drilling, etc.) between the hours of 6:00 a.m. and 9:00 p.m., which is being performed pursuant to a proper and current building permit.
12. Mosquito Spraying Equipment. The sound made by the City-owned or hired mosquito spraying equipment.

52.06 SOUND EQUIPMENT PERMIT. No person shall use, operate or cause to be used or operated any sound equipment upon the public rights-of-way or in any building or upon any premises, public or private, if the sound emitted thereby is plainly audible from the public right-of-way within the City unless such person has obtained a sound equipment permit in accordance with this section and the actual use or operation of such sound equipment is not inconsistent with the statements made in the application or the conditions imposed in the sound equipment permit.

1. Application for Permit. Applications for sound equipment permits shall be made in writing to the Clerk or Building Official and shall contain the following information:

- A. Name and address of applicant.
 - B. The type of event for which the sound equipment will be used.
 - C. The location where the sound equipment will be used.
 - D. The proposed date and duration of the event and the hours of operation of the sound equipment.
 - E. A general description of the sound equipment, including whether the sound source will be located inside a building or outside as well as the license number of any motor vehicle upon which said sound equipment is to be operated if applicable.
 - F. Any other information as may be required by the Clerk or Building Official.
2. **Permit Fee.** The fee for a sound equipment permit is five dollars (\$5.00) for one (1) day or less and twenty-five dollars (\$25.00) for two (2) through seven (7) days. No permit is required for sound equipment used by a school or the City, the State or the Federal government at events sponsored by the governmental subdivision or agency thereof.
3. **Issuance of Permit.** Permits may be issued by the Clerk or Building Official. Except as hereinafter provided, if the application contains the required information and is accompanied by the required fee, the sound equipment permit shall be issued with reasonable dispatch.
4. **Limitations.** A sound equipment permit shall not be issued if the sound to be emitted by the sound equipment would be a noise disturbance under Section 52.04 (other than subsection 9) of this chapter. A sound equipment permit issued in violation of this subsection 4 is void and of no force and effect.
5. **Conditions.** The Building Official or the Council may impose reasonable conditions and requirements to be met or fulfilled by the sound equipment permit holder preliminary to or at the time of the use or operation of the sound equipment. Such conditions and requirements shall be those conditions and requirements necessary or advisable to protect the health, welfare and quality of life of the residents of the City and may include, without limitation, restrictions on the time of day the sound equipment can be used or operated, restrictions on the level of the sound to be produced and restrictions on the number of minutes or consecutive minutes that the sound equipment may be used or operated during any one hour or day.
6. **Permissibility.** Any other language to the contrary in this chapter notwithstanding, sound made by sound equipment for which a valid sound equipment permit has been issued under this Section 52.06 shall be permissible hereunder and shall not constitute a violation of this chapter regardless of the fact that said sound equipment may be operated upon the public right-of-way or in a building or upon premises, public or private, that is plainly audible from a public right-of-way within the City.

52.07 OTHER LAWS AND ORDINANCES. No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by other ordinances of the City or State or Federal statutes.

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CHAPTER 53

WEEDS AND BRUSH

53.01 Weeds and Brush

53.02 Mowing of Properties

53.03 City Mowing Charge

53.04 Method of Notice

53.05 Method of Billing

53.06 Non-Zoning Variance Procedure

53.01 WEEDS AND BRUSH. Dense growth of all weeds, vines, brush or other vegetation in the City can constitute a health, safety or fire hazard. Unless a variance is allowed by resolution of the Council pursuant to Section 53.06, weeds, brush, or other uncultivated plants, except trees, shall be cut, mowed and maintained so as to not exceed the heights set forth specifically in this chapter.

53.02 MOWING OF PROPERTIES. Any property within the City, other than property used and taxed as agricultural, whether vacated or non-vacated is required to be mowed prior to the vegetation reaching a height of ten inches (10"). Once the vegetation has reached the height of ten inches (10") or twenty-four inches (24"), the City will arrange to mow the property at the property owner's expense. Property used and taxed as agricultural is exempt from this chapter's height and mowing requirements.

53.03 CITY MOWING CHARGE. Any property which is not mowed may be mowed by the City or its agents, and a charge of \$75.00 per hour, (with a minimum of one (1) hour, and any additional time over the first hour will be billed in half-hour increments), for such mowing, plus an administrative surcharge of \$100.00, will be charged to the property owner. Any property owner who fails to mow their property, thus allowing the same to be mowed by the City or its agents, and who does not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

53.04 METHOD OF NOTICE. Annual publication of this ordinance will serve as notice to property owners.

53.05 METHOD OF BILLING. Any billings for mowing done by the City or its agents are to be sent by regular mail and are payable within 30 days of the billing date.

53.06 NON-ZONING VARIANCE PROCEDURE. A non-zoning variance is a case-by-case deviation from this chapter only, when it is demonstrated that compliance with this chapter would be a practical impossibility and/or upon showing of good cause, an alternative to this chapter is provided that conforms to the general intent and spirit of this chapter. The Grounds Official shall be the Public Works Director, or appropriate designee. Any individual may apply to the Grounds Official for a non-zoning variance from this chapter. Procedures for granting variances from this chapter are as follows:

1. Application. Any individual seeking a non-zoning variance shall submit a written application to the Grounds Official. The application shall be submitted at the time the applicant becomes aware of the reason necessitating the non-zoning variance, but under no circumstances shall an application be considered after a violation under this chapter has occurred. The application shall state the provision from which a non-

zoning variance is being sought, the period of time it is to apply, the reason for which the non-zoning variance is sought and any other supporting information which the Grounds Official may reasonably require.

2. The Grounds Official shall decide, on the basis of the application, whether to grant or deny the non-zoning variance and what conditions or terms, if any, shall be attached. The decision of the Grounds Official shall be final, unless appealed within five (5) days of the Grounds Official's decision to the City Council.

3. Review Considerations. The Grounds Official, for an initial decision, and the Council, on review, shall consider:

A. The character and nature of the property under consideration.

B. Whether the public health, safety or welfare is endangered by granting the non-zoning variance.

C. Whether compliance with the provision would produce no benefit to the public.

D. Whether a previous non-zoning variance has been previously issued and the applicant's record of compliance.

4. Time Duration of Non-Zoning Variance. A non-zoning variance may be granted for a specific time interval only.

5. Council's Action. At the next regularly scheduled meeting, the Council shall, by resolution deny the non-zoning variance, approve it, or approve it subject to conditions. The Council's decision shall be final for purposes of any right to review under applicable law when that decision is reduced to writing and signed.

6. Revocation. The Council may at any time before or during the operation of a non-zoning variance granted by the Council or the Grounds Official revoke the variance for good cause.

(Ch. 53 - Ord. 211 - Aug. 10 Supp.)

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "At large" means off the premises of the owner and not under the control of a competent person by leash, chain or other similar restraint not more than ten feet in length, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.
7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.
(Code of Iowa, Sec. 717.1)
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

9. “Pet” means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.
10. “Vicious Dog” means:
- A. Any dog which has attacked a human being or domestic animal one or more times, without provocation;
 - B. Any dog with a history, tendency or disposition to attack, to cause injury to or otherwise endanger the safety of human beings or domestic animals;
 - C. Any dog that snaps, bites or manifests a disposition to snap or bite;
 - D. Any dog that has been trained for dog fighting, animal fighting or is owned or kept for such purposes;
 - E. Any dog trained to attack human beings, upon command or spontaneously in response to human activity except dogs owned by and under the control of the Police Department, a law enforcement agency of the State or the United States or a branch of the armed forces of the United States.
 - F. Any Staffordshire Terrier breed of dog;
 - G. Any American Pit-Bull Terrier breed of dog; or
 - H. Any American Staffordshire Terrier breed of dog.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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

55.08 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner or custodian of any dog, cat, or other household animal to permit such animal to: (a) bark, bay, cry, howl, yelp, crow or make any other noise excessively, continuously, or intermittently, for any unreasonable period of time so as to create an annoyance or disturbance of any person at any time of day or night regardless of whether the animal is physically situated on property under the control of the owner or custodian of the dog, cat or other household animal; and (b) run after or chase persons, bicycles, automobiles, or other vehicles.

55.09 VICIOUS DOGS.

1. Confinement of Vicious Dogs. All vicious dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed. Such pen, kennel or structure must have secure sides and a secure top attached to the sides or in lieu of a top, walls at least six feet in height and at least six inches taller than any internal structure. All pens or other structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet so as to prevent digging under the walls by the confined dog. All structures erected to house vicious dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition.

2. Leashing of Vicious Dogs. No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six (6) feet in length. No person shall permit a vicious dog to be kept on a chain, rope, or other type of leash unless they are under the actual physical control of a person eighteen years of age or older. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

3. At Large Vicious Dogs. A vicious dog which is found, more than twice in any calendar year, not to be confined as herein required, shall be required to be permanently removed from the City or destroyed. An animal which is returned to the City after removal shall be destroyed.

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 kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

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

veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded at the impoundment facility utilized by the City, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.14 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. Impounding costs are fifty dollars (\$50.00) for first impoundment, one hundred dollars (\$100.00) for second impoundment and one hundred fifty dollars (\$150.00) for third and subsequent impoundments plus boarding costs as established by the impoundment facility.

(Code of Iowa, Sec. 351.37)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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CHAPTER 56

DANGEROUS AND ILLEGAL ANIMALS

56.01 Definitions

56.02 Keeping of Illegal Animals Prohibited

56.03 Keeping of Dangerous Animals Prohibited

56.04 Seizure, Impoundment and Disposition

56.05 Removal of Animal

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

1. “Dangerous animal” means any animal, including a dog, except for an illegal animal, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence.
2. “Illegal animal” means:
 - A. Badgers, wolverines, weasels, skunks and minks;
 - B. Raccoons;
 - C. Bats;
 - D. Scorpions;
 - E. Opossums;

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

56.03 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a dangerous animal except for dangerous animals under the control of a law enforcement or military agency.

56.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that an illegal animal or any animal which displays dangerous tendencies is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the City Clerk or the Police Chief, be destroyed if it cannot be confined or captured. Any dog which has been previously declared vicious or which is believed to be vicious and is not properly confined may be treated as a dangerous animal and be immediately seized anywhere within the City. The City shall be under no duty to attempt the confinement or capture of an illegal animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of an individual that a person is keeping, sheltering or harboring an illegal animal on premises in the City, the City Clerk shall cause the matter to be investigated by the Police Chief and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring an illegal animal in the City, the Police Chief shall immediately seize any such animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period the individual or entity keeping, sheltering or harboring such illegal animal has not petitioned the Dallas County District Court seeking return of such illegal animal, the Police Chief shall safely remove such animal from the City or destroy the animal in a humane manner.

3. Upon the complaint of an individual that a person is keeping, sheltering or harboring a dangerous animal on premises in the City, the City Clerk shall cause the matter to be investigated by the Police Chief and if, after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring such dangerous animal in the City, the Police Chief shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove a dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the Police Chief shall cause the animal to be immediately seized or destroyed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

4. The order to remove a dangerous animal issued by the Police Chief may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Police Chief.

5. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Police Chief. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing or any continued session thereof.

6. If the Council affirms the action of the Police Chief, the Council shall order in its written decision that the individual or entity owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the Police Chief is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Police Chief is authorized to seize and impound such animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the Police Chief or Council was issued has not petitioned the Dallas County District Court for a review of said order, the Police Chief shall safely remove such animal from the City or destroy the animal in a humane manner. Failure to comply with an

order of the Police Chief issued pursuant hereto and not appealed, or of the Council after appeal, shall constitute a simple misdemeanor.

56.05 REMOVAL OF ANIMAL. Any animal required by any provision of this chapter to be removed, voluntarily or otherwise, from the City shall be removed by its owner or the person harboring or having control of such animal who shall provide the Police Chief a notarized statement designating the place to which the animal has been removed. An animal not removed as required, or an animal which has been removed and which is again found to be illegally within the City shall be humanely destroyed.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Van Meter Traffic Code.”

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

(Code of Iowa, Sec. 321.1)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

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

3. Parade Not A Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.
4. Control By Peace Officers and Fire Fighters. 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 Traffic Control Devices
61.02 Installation
61.03 Compliance
61.04 Crosswalks

61.05 Traffic Lanes
61.06 Necessity of Signs
61.07 Standards

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

61.02 INSTALLATION. The Council shall cause to be placed and maintained traffic control devices to carry out the provisions of the Traffic Code of the City under State law or to regulate, guide or warn traffic. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 & 321.255)

61.03 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)

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

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

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

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

61.06 NECESSITY OF SIGNS. No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in a viewable position and sufficiently legible to an ordinarily observant person.

61.07 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)

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 Tampering with Vehicle
62.07 Open Containers in Motor Vehicles
62.08 Obstructing View at Intersections
62.09 Reckless Driving
62.10 Careless Driving

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
8. Section 321.99 – Fraudulent use of registration.
9. Section 321.174 – Operators licensed.
10. Section 321.174A – Operation of motor vehicles with expired license.
11. Section 321.180 – Instruction permits.
12. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
13. Section 321.193 – Restricted licenses.
14. Section 321.194 – Special minor’s licenses.
15. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
16. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
17. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
18. Section 321.219 – Permitting unauthorized minor to drive.
19. Section 321.220 – Permitting unauthorized person to drive.
20. Section 321.221 – Employing unlicensed chauffeur.

21. Section 321.222 – Renting motor vehicle to another.
22. Section 321.223 – License inspected.
23. Section 321.224 – Record kept.
24. Section 321.232 – Radar jamming devices; penalty.
25. Section 321.234A – All-terrain vehicles.
26. Section 321.235A – Electric personal assistive mobility devices.
27. Section 321.247 – Golf cart operation on City streets.
28. Section 321.257 – Official traffic control signal.
29. Section 321.259 – Unauthorized signs, signals or markings.
30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
31. Section 321.262 – Damage to vehicle.
32. Section 321.263 – Information and aid.
33. Section 321.264 – Striking unattended vehicle.
34. Section 321.265 – Striking fixtures upon a highway.
35. Section 321.275 – Operation of motorcycles and motorized bicycles.
36. Section 321.278 – Drag racing prohibited.
37. Section 321.288 – Control of vehicle; reduced speed.
38. Section 321.295 – Limitation on bridge or elevated structures.
39. Section 321.297 – Driving on right-hand side of roadways; exceptions.
40. Section 321.298 – Meeting and turning to right.
41. Section 321.299 – Overtaking a vehicle.
42. Section 321.302 – Overtaking on the right.
43. Section 321.303 – Limitations on overtaking on the left.
44. Section 321.304 – Prohibited passing.
45. Section 321.306 – Roadways laned for traffic.
46. Section 321.307 – Following too closely.
47. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
48. Section 321.309 – Towing; convoys; drawbars.
49. Section 321.310 – Towing four-wheel trailers.
50. Section 321.312 – Turning on curve or crest of grade.
51. Section 321.313 – Starting parked vehicle.
52. Section 321.314 – When signal required.
53. Section 321.315 – Signal continuous.
54. Section 321.316 – Stopping.

55. Section 321.317 – Signals by hand and arm or signal device.
56. Section 321.319 – Entering intersections from different highways.
57. Section 321.320 – Left turns; yielding.
58. Section 321.321 – Entering through highways.
59. Section 321.322 – Vehicles entering stop or yield intersection.
60. Section 321.323 – Moving vehicle backward on highway.
61. Section 321.323A – Approaching certain stationary vehicles.
62. Section 321.324 – Operation on approach of emergency vehicles.
63. Section 321.324A – Funeral processions.
64. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
65. Section 321.330 – Use of crosswalks.
66. Section 321.332 – White canes restricted to blind persons.
67. Section 321.333 – Duty of drivers.
68. Section 321.340 – Driving through safety zone.
69. Section 321.341 – Obedience to signal of train.
70. Section 321.342 – Stop at certain railroad crossings; posting warning.
71. Section 321.343 – Certain vehicles must stop.
72. Section 321.344 – Heavy equipment at crossing.
73. Section 321.344B – Immediate safety threat; penalty.
74. Section 321.354 – Stopping on traveled way.
75. Section 321.359 – Moving other vehicle.
76. Section 321.362 – Unattended motor vehicle.
77. Section 321.363 – Obstruction to driver’s view.
78. Section 321.364 – Preventing contamination of food by hazardous material.
79. Section 321.365 – Coasting prohibited.
80. Section 321.367 – Following fire apparatus.
81. Section 321.368 – Crossing fire hose.
82. Section 321.369 – Putting debris on highway.
83. Section 321.370 – Removing injurious material.
84. Section 321.371 – Clearing up wrecks.
85. Section 321.372 – School buses.
86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
87. Section 321.381A – Operation of low-speed vehicles.
88. Section 321.382 – Upgrade pulls; minimum speed.

89. Section 321.383 – Exceptions; slow vehicles identified.
90. Section 321.384 – When lighted lamps required.
91. Section 321.385 – Head lamps on motor vehicles.
92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 – Rear lamps.
94. Section 321.388 – Illuminating plates.
95. Section 321.389 – Reflector requirement.
96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
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100. Section 321.395 – Lamps on parked vehicles.
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102. Section 321.402 – Spot lamps.
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105. Section 321.404A – Light-restricting devices prohibited.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
111. Section 321.417 – Single-beam road-lighting equipment.
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113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
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116. Section 321.422 – Red light in front.
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118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.
121. Section 321.433 – Sirens, whistles and bells prohibited.
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132. Section 321.446 – Child restraint devices.
133. Section 321.449 – Motor carrier safety regulations.
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135. Section 321.454 – Width of vehicles.
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137. Section 321.456 – Height of vehicles; permits.
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139. Section 321.458 – Loading beyond front.
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141. Section 321.461 – Trailers and towed vehicles.
142. Section 321.462 – Drawbars and safety chains.
143. Section 321.463 – Maximum gross weight.
144. Section 321.465 – Weighing vehicles and removal of excess.
145. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

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

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

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

62.06 TAMPERING WITH VEHICLE. It is unlawful for any person, either individually or in association with one or more other persons, willfully to injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

62.07 OPEN CONTAINERS IN MOTOR VEHICLES.

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284)

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284A)

As used in this section “passenger area” means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

62.08 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 shall be 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.

62.09 RECKLESS DRIVING. No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.

(Code of Iowa, Sec. 321.277)

62.10 CARELESS DRIVING. No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
2. Simulating a temporary race.
3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
4. Causing the vehicle to unnecessarily turn abruptly or sway.

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Zones
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

63.04 SPECIAL SPEED ZONES. In accordance with requirements of the Iowa State 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 45 MPH Speed Zones. A speed in excess of thirty-five miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Richland Road/R-16 from Richland Circle to 365th Street.
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Richland Road/R-16 from the North Drive of Richland Circle to the intersection of the school driveway with Richland Road R-16.

(Ch. 63 - Ord. 217 – June 13 Supp.)

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.03 Left Turn for Parking

64.02 U-turns

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

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.

(Code of Iowa, Sec. 321.311)

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

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

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Yield to Pedestrians in Crosswalks

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

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

(Code of Iowa, Sec. 321.249)

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges
66.05 Truck Route

66.01 TEMPORARY EMBARGO. If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

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

(Code of Iowa, Sec. 321.471)

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

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

(Code of Iowa, Sec. 321.473)

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

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

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

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CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled

69.02 Park Adjacent to Curb

69.03 Park Adjacent to Curb – One-way Street

69.04 Angle Parking

69.05 Angle Parking – Manner

69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited

69.08 Persons With Disabilities Parking

69.09 Truck Parking

69.10 Snow Removal

69.11 Travel Trailers and Motor Homes

69.12 Controlled Access Facilities

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

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

– NONE –

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

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than seventy-two (72) hours, unless otherwise limited under the provisions of Section 69.01 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 the Code of Ordinances.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358 [5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236 [1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236 [1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358 [1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358 [2])
6. Intersection. Within, or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358 [3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358 [4])
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358 [6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358 [8])
10. 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])
11. 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])
12. 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])

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

(Code of Iowa, Sec. 321.360)

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

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

15. 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])

16. 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.

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

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

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

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

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

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

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

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

69.09 TRUCK PARKING. No person shall park a truck, truck tractor, semi-trailer, or trailer in any portion of the City, except in areas specifically designated by the Mayor and Council. For the purpose of this section, truck, truck tractor, semi-trailer or trailer is defined as any motor vehicle which weighs in excess of six thousand pounds and includes any semi-tractor, semi-trailer, or any combination thereof. Provided, however, nothing in this section shall be construed to prohibit the parking of any such vehicle for a reasonable amount of time for the purpose of loading or unloading.

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

69.10 SNOW REMOVAL. No person shall park or allow a vehicle to remain parked on a public street in the City from the time it begins to snow until such time as the streets have been cleared of accumulated snow from curb to curb (or from all of the traveled portion of the roadway for those streets which do not have curbs) or 48 hours, whichever time is the shorter. Vehicles shall be removed immediately once it begins to snow. The Director of Public Works and Utilities is also empowered to end the prohibition on parking prior to the expiration of the 48-hour period if the Director determines that the streets have been cleared. The Director of Public Works and Utilities shall notify the Police Chief when the parking prohibition has ended.

(Code of Iowa, 321.236[1])

69.11 TRAVEL TRAILERS AND MOTOR HOMES. No person shall park a trailer, travel trailer, fifth wheel travel trailer, or motor home on any public street, alley or place for a period of time in excess of twenty-four (24) hours.

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

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

70.01 ARREST OR CITATION. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such officer may:

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

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

1. “All-terrain vehicle” or “ATV” means a motorized flotation-tire vehicle, with not less than three (3) and not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

3. “Off-road utility vehicle” means a motorized flotation-tire vehicle, with not less than four (4) and not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than one thousand eight hundred (1,800) pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

4. “Snowmobile” means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (48) inches or less, or any combination of runners, skis or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks or treads.

(Code of Iowa, Sec. 321G.1[18])

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the

Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

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

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

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

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

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

4. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

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

1. Streets. ATVs shall not be operated upon any streets within the City.
2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

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

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

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

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

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

75.06 NEGLIGENCE. The owner and operator of an ATV or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile. The

owner of an ATV or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV or snowmobile at the time the injury or damage occurred.

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

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

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

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

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

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

76.05 BICYCLE PATHS. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

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

76.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

76.07 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

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

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.
(Code of Iowa, Sec. 321.236[10])

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.
(Code of Iowa, Sec. 321.236[10])

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.
(Code of Iowa, Sec. 321.236[10])

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.
(Code of Iowa, Sec. 321.236[10])

76.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

76.11 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.
(Code of Iowa, Sec. 321.236[10])

76.13 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.
(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.
(Code of Iowa, Sec. 321.236[10])

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code

of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1])

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) 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 twenty-four (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 twenty-four (24) hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and

addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination

as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions

81.02 Warning Signals

81.03 Obstructing Streets

81.04 Crossing Maintenance

81.05 Speed

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

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

(Code of Iowa, Sec. 321.1)

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

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

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

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

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

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

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

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

(Code of Iowa, Sec. 364.11)

81.05 SPEED. It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than twenty-five (25) miles per hour.

(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])

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CHAPTER 90

WATER SERVICE SYSTEM

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

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

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

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

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system.

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

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

90.06 CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay a connection charge in the amount of six hundred dollars (\$600.00) to reimburse the City for costs borne by the City in making water service available to the property served.

The Council shall have the discretion to waive these fees by resolution under such circumstances as they deem to be in the City's interests.

(Ch.90 - Ord. 233 – June 13 Supp.)

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with the *International Plumbing Code*, the laws of the State and other applicable rules and regulations of the City.

90.08 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

90.09 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord 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 (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.10 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.11 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.

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

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

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

90.14 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.

90.15 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.

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

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

90.17 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.

90.18 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.

CHAPTER 91

WATER METERS

91.01 Purpose	91.06 Meter Costs
91.02 Water Use Metered	91.07 Meter Repairs
91.03 Fire Sprinkler Systems – Exception	91.08 Right of Entry
91.04 Location of Meters	91.09 Irrigation Meters
91.05 Meter Setting	

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 a 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 open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

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

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

91.06 METER COSTS. The full cost of any meter larger than a 5/8-inch meter shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

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

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

91.09 IRRIGATION METERS. An irrigation meter may also be installed to measure water that is not disposed of through the public sanitary sewer system. The water measured by an irrigation meter may include water for swimming pools, watering yards, watering gardens or other similar uses. The following regulations apply to irrigation meters.

1. Meters shall be registered by and purchased from the City at the City's cost, plus \$25.00. The expense to install, maintain and replace the meter will be the property owner's responsibility.
2. Prior to installation of the irrigation meter, the Superintendent shall review and determine whether the meter meets the guidelines set forth, including location and use of the meter.
3. There will be two installation methods allowed for the irrigation meter:
 - A. Inside the property - Type II meter.
 - (1) The irrigation meter must be installed within two feet of and parallel to the main meter. The meter must be installed parallel to the floor with the arrow of the meter being the direction of the flow of the water to the outside.
 - (2) Shut off valves must be installed within one foot both in front of and behind meter. Water lines must be valved separately from main system and lead directly outside.
 - B. Outside the property - Type III meter.
 - (1) The irrigation meter must be attached to an existing outside faucet in series with the main system. The distance and location of meter from faucet shall be approved by the Superintendent. The arrow of the meter shall be in the direction of flow of water from the house to the hose.
 - (2) The meter needs to be accessible to the meter reader while in use and shall not be removed and stored in garage, etc.
4. When the connection of the irrigation meter is to an underground irrigation system, a back flow preventer must be installed between the irrigation system and the irrigation meter. The back flow prevention device must be approved by the Superintendent prior to installation. After initial approval, the back flow preventer must be inspected and certified annually on or before the anniversary of installation. The certification must be submitted to the City annually to continue service. Failure to certify back flow preventer may result in service being discontinued without further notice. Service will not be restored until certification and all outstanding bills are brought up to date or other arrangements are made with the City and Superintendent. A fee of twenty dollars (\$20.00) will be charged prior to reconnection in the even of service interruption. No irrigation systems shall be installed in the public right-of-way.
5. Billing for a Type II meter user shall be:
 - A. Water. Gallons from main meter plus gallons from irrigation meter.
 - B. Sewer. Gallons from main meter only.
6. Billing for a Type III meter user shall be:
 - A. Water. Gallons from main meter only.
 - B. Sewer. Gallons from main meter minus gallons from irrigation meter.

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CHAPTER 92
WATER RATES

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

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Temporary Vacancy

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

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 2,000	\$10.84 (minimum bill)
All over 2000	\$3.61 per 1,000 gallons or portion thereof

(Ord. 213 – Aug. 10 Supp.)

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

Gallons Used Per Month	Rate
First 2,000	\$21.69 (minimum bill)
All over 2000	\$7.23 per 1,000 gallons or portion thereof

(Ord. 213 – Aug. 10 Supp.)

No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth day of each month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due for water and sewer charges shall be added to each delinquent bill. The late payment penalty shall not apply to delinquent solid waste fees.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

(Ord. 198 – Dec. 08 Supp.)

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of twenty-five dollars (\$25.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Ord. 198 – Dec. 08 Supp.)

(Code of Iowa, Sec. 384.84)

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

(Ord. 198 – Dec. 08 Supp.)

(Code of Iowa, Sec. 384.84)

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a twenty-five dollar (\$25.00) fee collected for shutting the water off at the curb valve and a twenty-five dollar (\$25.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.
21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means the Director of Public Works and Utilities of the City or any authorized deputy, agent, or representative.
23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

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

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet of the property line and five hundred (500) feet of the house, building or property used for human occupancy, employment, recreation or other purposes. The Council shall have the discretion to exempt property from this section if gravity sewer service is not available and the owner has suitable alternative service. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. There shall be no sewer service connections made outside the City limits without annexation.

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

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

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

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

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

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Connection Charge

96.03 Connection Requirements

96.04 Sewer Tap

96.05 Inspection Required

96.06 Property Owner's Responsibility

96.07 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay a connection charge to reimburse the City for costs borne by the City in making sewer service available to the property served in accordance with the following.

1. Single-family dwelling – \$500.00
2. Duplex – \$800.00
3. Each additional dwelling unit – \$250.00
4. Commercial and Industrial – \$500.00

The Council shall have the discretion to waive these fees by resolution under such circumstances as they deem to be in the City's interests.

(Ch.96 - Ord. 233 – June 13 Supp.)

96.03 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *International Plumbing Code*, the laws of the State and other applicable rules and regulations of the City.

96.04 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.

96.05 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the *International Plumbing Code*.

96.06 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

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

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

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges – Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° to 65° C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

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

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

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

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing

facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

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

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

CHAPTER 98
ON-SITE WASTEWATER SYSTEMS

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

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

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

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

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

(IAC, 567-69.1[3])

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

(IAC, 567-69.1[3 & 4])

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

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

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Rate

99.03 Private Water Systems

99.04 Payment of Bills

99.05 Lien for Nonpayment

99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

Gallons Used Per Month	Rate
First 2,000	\$15.66 (minimum bill)
All over 2000	\$4.60 per 1,000 gallons or portion thereof

(Ord. 213 – Aug. 10 Supp.)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

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

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

(Code of Iowa, Sec. 384.84)

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

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CHAPTER 100

BENEFITED DISTRICTS

100.01 Purpose
100.02 Intent
100.03 Procedure

100.04 West Service Area Benefited Sewer District
100.05 District Connection Fees

100.01 PURPOSE. The City has determined the necessity of establishing a policy and a procedure to be utilized to recover the cost of designing and constructing major sanitary sewer facilities and major water main facilities in those instances in which a significant number of the properties to be benefited by such facilities are not sufficiently developed to permit the recovery of those costs through the special assessment process as provided in Chapter 384, Division IV of the Code of Iowa. The City hereby declares its intent to utilize connection fees, as herein provided, to recover the costs of designing and constructing such major sanitary sewer facilities and major water main facilities from property owners who connect to such facilities subsequent to their construction.

100.02 INTENT. It is the intent of this chapter to set forth the method of recovery of proportional cost shares from those property owners who connect their properties to major sanitary sewer facilities and major water main facilities subsequent to their construction, so that in the event that all property, other than street and road right-of-way, which lies within the benefited district is connected to the major sanitary sewer facilities and major water main facilities during their expected useful life, then those properties shall bear, in the aggregate, up to 100 percent of the cost for designing and constructing such facilities, including legal, administrative, and interest expenses associated therewith.

100.03 PROCEDURE.

1. In the event the Council determines the necessity of constructing a major sanitary sewer facility or major water main facility, and determines that the utilization of a connection fee is the most equitable manner in which to recover the City's costs associated therewith, the Council shall cause a "Notice of Public Hearing on the Proposed Adoption of an Ordinance to Establish a Benefited District and a Connection Fee" to be published in a newspaper of general circulation within the City as hereinafter provided. In addition to indicating the date, time and place of the public hearing, the notice shall:

A. Indicate the nature and extent of the major sanitary sewer facility or facilities, or major water main facility or facilities, under consideration for construction, as well as the estimated cost or costs for the design and construction of same;

B. Identify by general description the proposed benefited district to be served by the major sanitary sewer facility or facilities, or major water main facility or facilities; and

C. Set forth the proposed schedule of connection fees to be paid by property owners within the benefited district who connect to said facilities, expressed in dollars per acre of land area served or such other method as the City determines to be equitable for the benefited district.

The notice shall state that the proposed connection fee ordinance is on file, along with a plat of the area to be served, and both are available for public inspection in the office of the Clerk. The notice shall be published not more than 45 days and not less than 20 days prior to the scheduled date of the public hearing, and shall be mailed to each property owner within the benefited district as shown by the records of the County Auditor.

2. At the public hearing, the owners of property within the proposed benefited district shall be heard and may offer comments or objections as to:

- A. The necessity for the project;
- B. The calculation of the area benefited by the proposed major sanitary sewer facilities or major water main facilities;
- C. The estimated cost of the proposed facilities; and
- D. The proposed connection fee.

3. Upon concluding the hearing, the Council shall rule upon the objections presented during the hearing and may consider the adoption of the proposed connection fee ordinance. Upon consideration of the proposed connection fee ordinance, the Council may:

- A. Adopt the ordinance as proposed;
- B. Delete elements or portions of the proposed major sanitary sewer facilities and major water main facilities from the proposed project and the properties served thereby from the benefited district proposed; or
- C. Amend the ordinance to revise the connection fee schedule.

4. The connection fee ordinance may provide, at the Council's discretion, that single family residences within the benefited district, in existence or under construction upon the effective date of the ordinance, and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility or major water main facility. In that event, the ordinance shall include the following provisions:

A. The owners of residences on parcels of less than one acre in size located within the City may connect such residences to the major sanitary sewer facility or major water main facility upon approval of their application for connection, payment of the connection fee for the parcel, and construction, at the owner's expense, of appropriate connection structures, as determined necessary by the City.

B. The owners of residences on parcels in excess of one acre in size located within the City may connect such residences to the major sanitary sewer facility or major water main facility upon approval of their application for connection, division of said parcel into a residence parcel and a remainder parcel, payment of the connection fee for the residence parcel, and construction, at the owner's expense, of appropriate connection structures, as determined necessary by the City. The connection fee for the remainder parcel shall be payable at such time as the remainder parcel shall be connected to the major sanitary sewer facility or major water main facility. For purposes of this chapter, a parcel may be divided once. For purposes of this section, division of the property into a residence parcel and a remainder parcel may be

accomplished by submitting a drawing showing a graphical depiction of the two parcels including dimensions accurate to within a distance of one foot, a legal description of the entire parcel and a legal description of the residence parcel with such accuracy as to allow the City to determine a reasonable description of the remainder parcel. For purposes of this section, the division of property does not require a subdivision of the property or a plat of survey.

The connection fee ordinance may also provide, at the Council's discretion, that sanitary sewer service or water service can be provided to recreational and park facilities and to commercial and industrial parcels and facilities, in the same manner and under the same procedures set forth in this section for single-family residences within the benefited district. All other property located within the corporate limits of the City and within a benefited district shall be eligible for connection to the major sanitary sewer facility or major water main facility upon approval of an application for connection by the owner thereof, as hereinafter provided, and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and, where applicable, all sanitary sewer improvements and/or water main improvements necessary to serve said property have been constructed, at the owner's expense, and accepted by the City.

5. After adoption, publication and recording by the Clerk of a connection fee ordinance for a benefited district, all owners of those properties within the benefited district whose properties are eligible for connection, and who propose to connect such properties directly or indirectly to the major sanitary sewer facility or water main facility, shall make application to the City for such connection. The submittal of construction plans to the City for sanitary sewer improvements and/or water main improvements on property being subdivided for development shall constitute an application to the City for purposes of this chapter. The sewer connection fee or water connection fee shall be due and payable at the time application is made to the City for connection to the major sanitary sewer facility or major water main facility. No connection shall be made to a major sanitary sewer facility or major water main facility until such application has been approved and until the required connection fee has been paid. The sewer connection fee and/or water connection fee required by this section shall be paid before the City will approve the final plat of property subject to the connection fee.

6. The sewer connection fee or water connection fee shall be in an amount equal to the maximum acre area of contiguous property, or fraction thereof, within the benefited district under common ownership which can be lawfully served through such proposed connection, multiplied by the per-acre connection fee or such other fee basis as determined for the benefited district established in the connection fee ordinance for that benefited district. The connection fee ordinance may provide for a graduated connection fee, with annual interest adjustments, such that property owners who connect in later years pay interest on the connection fee for their property. The rate of interest applicable to the connection fee established in each benefited district shall not exceed the rate of interest applicable to special assessments pursuant to Chapter 74A and Section 384.60(3) of the Iowa Code in effect on the date that the connection fee was established for that district by enactment of a connection fee ordinance.

7. Property outside of the benefited district would be eligible for connection to a major sanitary sewer facility or major water main facility only upon the approval of an application for connection by the owner thereof, a determination by the City that

sufficient capacity exists in the major sanitary sewer facility or major water main facility to serve such area outside of the boundaries of the benefited district and following payment of a fee calculated on the same basis as if the property were located within the benefited district. Without approval of the City and payment of the applicable fee, no property outside of the benefited district may connection to the major sanitary sewer facility or major water main facility constructed to serve the benefited district. The City may waive the requirement for payment of the applicable fee.

8. The sewer connection fee or water connection fee required by this chapter shall be due and payable to the City and is in addition to, and not in lieu of, any other fees for connection required under the plumbing code or other provisions of this Code of Ordinances.

9. In the event any property owner connects his or her property within a benefited district or property outside a benefited district connecting to a major sanitary sewer facility or major water main facility for which a benefited distribution has been established to a major sanitary sewer facility or major water main facility without having made application therefor or without having received approval thereof or without having paid the required connection fee established by a connection fee ordinance, the City shall be entitled to disconnect such private sewer connection or water connection until such time as the property owner has made and received approval of the application, and has paid the required connection fee.

100.04 WEST SERVICE AREA BENEFITED SEWER DISTRICT. The West Service Area Benefited Sewer Connection Fee District is hereby established consisting of a tract of land in Sections 27, 28, 32, 33 and 34, Township 78 North, Range 27 West of the 5th Principal Meridian, Dallas County, Iowa, as graphically depicted on Exhibit A attached to this chapter and made a part hereof, and more particularly described as follows:

Commencing at the point of intersection of the center of the right-of-way of Hazel Street and the north line of the Northeast Quarter of the Southeast Quarter (NE¹/₄ SE¹/₄) of Section 28, Township 78 North, Range 27 West of the 5th Principal Meridian; thence east along the north line of the Northeast Quarter of the Southeast Quarter (NE¹/₄ SE¹/₄) of said Section 28 to the East Quarter (E¹/₄) corner of said Section 28; thence south along the east line of the Northeast Quarter (NE¹/₄) of said Section 28 to the southwest corner of Lot 2 Replat of Traxler's Subdivision Amended Plat, said point also being the northwest corner of Parcel B of the North One-half of the Southwest Quarter (N¹/₂ SW¹/₄) of Section 27, Township 78 North, Range 27 West; thence easterly along the northerly line of said Parcel B North One-half of the Southwest Quarter (N¹/₂ SW¹/₄) of said Section 27 to the west right-of-way line of Richland Road; thence southerly along the west right-of-way line of Richland Road to the south line of said Section 27; thence east along the north line of Section 34, Township 78 North, Range 27 West to the North Quarter (N¹/₄) corner of said Section 34; thence south along the east line of the Northeast Quarter of the Northwest Quarter (NE¹/₄ NW¹/₄) of said Section 34 to the southeast corner of the Northeast Quarter of the Northwest Quarter (NE¹/₄ NW¹/₄) of said Section 34; thence east along the north line of the Southwest Quarter of the Northeast Quarter (SW¹/₄ NE¹/₄) of said Section 34 to the northeast corner of the Southwest Quarter of the Northeast Quarter (SW¹/₄ NE¹/₄) of said Section 34; thence south along the east line of the Southwest Quarter of the Northeast

Quarter (SW¹/₄ NE¹/₄) of said Section 34 to the southeast corner of the Southwest Quarter of the Northeast Quarter (SW¹/₄ NE¹/₄) of said Section 34; thence west along the south line of the Southwest Quarter of the Northeast Quarter (SW¹/₄ NE¹/₄) of said Section 34 to the Center of said Section 34; thence southwesterly to a point on the west line of the Northeast Quarter of the Southwest Quarter (NE¹/₄ SW¹/₄) of said Section 34, said point being a distance of 700 feet south of the northwest corner of the Northeast Quarter of the Southeast Quarter (NE¹/₄ SE¹/₄) of said Section 34; thence southwesterly to the southwest corner of said Section 34; thence west along the south line of Section 33, Township 78 North, Range 27 West of the 5th Principal Meridian to the southwest corner of said Section 33; thence northwesterly to the northwest corner of the Southeast Quarter of the Southeast Quarter (SE¹/₄ SE¹/₄) of Section 32, Township 78 North, Range 27 West; thence north along the west line of the Northeast Quarter of the Southeast Quarter (NE¹/₄ SE¹/₄) of said Section 32 to the northwest corner of the Northeast Quarter of the Southeast Quarter (NE¹/₄ SE¹/₄) of said Section 32; thence northeasterly to a point on the east line of said Section 32, said point being a distance of 913.2 feet south of the northeast corner of the Southeast Quarter of the Northeast Quarter (SE¹/₄ NE¹/₄) of said Section 32; thence northeasterly to a point in the Southwest Quarter of the Northwest Quarter (SW¹/₄ NW¹/₄) of Section 33, Township 78 North, Range 27 West, said point being a distance of 660 feet north of the south line and 660 feet east of the west line of the Southwest Quarter of the Northwest Quarter (SW¹/₄ NW¹/₄) of said Section 33; thence northerly along a line parallel to and 660 feet east of the west line of the Northwest Quarter (NW¹/₄) of said Section 33 to a point on the north line of said Section 33; thence northerly along a line parallel to and 660 feet easterly of the west line of the Southwest Quarter of the Southwest Quarter (SW¹/₄ SW¹/₄) of Section 28, Township 78 North, Range 27 West to a point on the north line of the Southwest Quarter of the Southwest Quarter (SW¹/₄ SW¹/₄) of said Section 28; thence northerly along a line located parallel to and 660 feet easterly of the west line of the Northwest Quarter of the Southwest Quarter (NW¹/₄ SW¹/₄) of said Section 39, a distance of 660 feet; thence east along a line parallel to and 660 feet northerly of the south line of the Northwest Quarter of the Southwest Quarter (NW¹/₄ SW¹/₄) of said Section 28 to a point on the east line of the Northwest Quarter of the Southwest Quarter (NW¹/₄ SW¹/₄) of said Section 28, said point being a distance of 660 feet northerly of the southeast corner of the Northwest Quarter of the Southwest Quarter (NW¹/₄ SW¹/₄) of said Section 34; thence northeasterly across the Northeast Quarter of the Southwest Quarter (NE¹/₄ SW¹/₄) of said Section 28 to the northwest corner, Lot 3 Weigel Addition Plat 4; thence south along the west line of said Lot 3 to the southwest corner of said Lot 3; thence easterly along the north line of Lot 2 Weigel Addition Plat 4 to the northeast corner of said Lot 2; thence easterly along the north line of Lot 1 Weigel Addition Plat 4 to the northeast corner of said Lot 1; thence continuing easterly to the center of the right-of-way of Hazel Street; thence northerly along the centerline of Hazel Street to the point of beginning, except Crestview Estates.

100.05 DISTRICT CONNECTION FEES. Connection fees are hereby established and shall be imposed upon owners of properties within the West Service Area Sanitary Sewer Connection Fee District, pursuant to Van Meter Ordinance No. 175, at the time of application to connect properties to said sewer facilities as follows:

1. From the effective date of Ordinance No. 181 through June 30, 2007, a connection fee of \$1,500 per acre of property served by the sewer facility shall be imposed. Thereafter the per acre connection fee shall be annually adjusted as of July 1 of each year according to the following schedule:

<u>Effective Date</u>	<u>Connection Fee</u> <u>(\$/Acre)</u>
July 1, 2007	\$ 1,575.00
July 1, 2008	\$ 1,650.00
July 1, 2009	\$ 1,725.00
July 1, 2010	\$ 1,800.00
July 1, 2011	\$ 1,875.00
July 1, 2012	\$ 1,950.00
July 1, 2013	\$ 2,025.00
July 1, 2014	\$ 2,100.00
July 1, 2015	\$ 2,175.00
July 1, 2016	\$ 2,250.00
July 1, 2017	\$ 2,325.00
July 1, 2018	\$ 2,400.00
July 1, 2019	\$ 2,475.00
July 1, 2020	\$ 2,550.00
July 1, 2021	\$ 2,625.00

After July 1, 2021, connection fee shall be the prior year’s fee plus \$75.00

2. The above established connection fee schedule shall also apply to any properties outside of the West Service Area Sanitary Sewer Connection Fee District which uses or derives benefit from any of the sewer facilities constructed to serve the West Service Area Sanitary Sewer Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived by the property.

The Council shall have the discretion to waive these fees by resolution under such circumstances as they deem to be in the City’s interests.

(Ch.100 - Ord. 233 – June 13 Supp.)

3. The above established connection fee schedule shall not apply to any properties within the West Service Area Sanitary Sewer Connection Fee District which does not use or derive any benefit from the sewer facilities constructed for the West Service Area Sanitary Sewer Connection Fee District.

4. The determination that a property is to be connected to the sewer facilities shall occur, and the appropriate connection fee shall be paid, prior to the time of release of a final plat for recordation, issuance of a building permit or issuance of a plumbing permit, whichever occurs first.

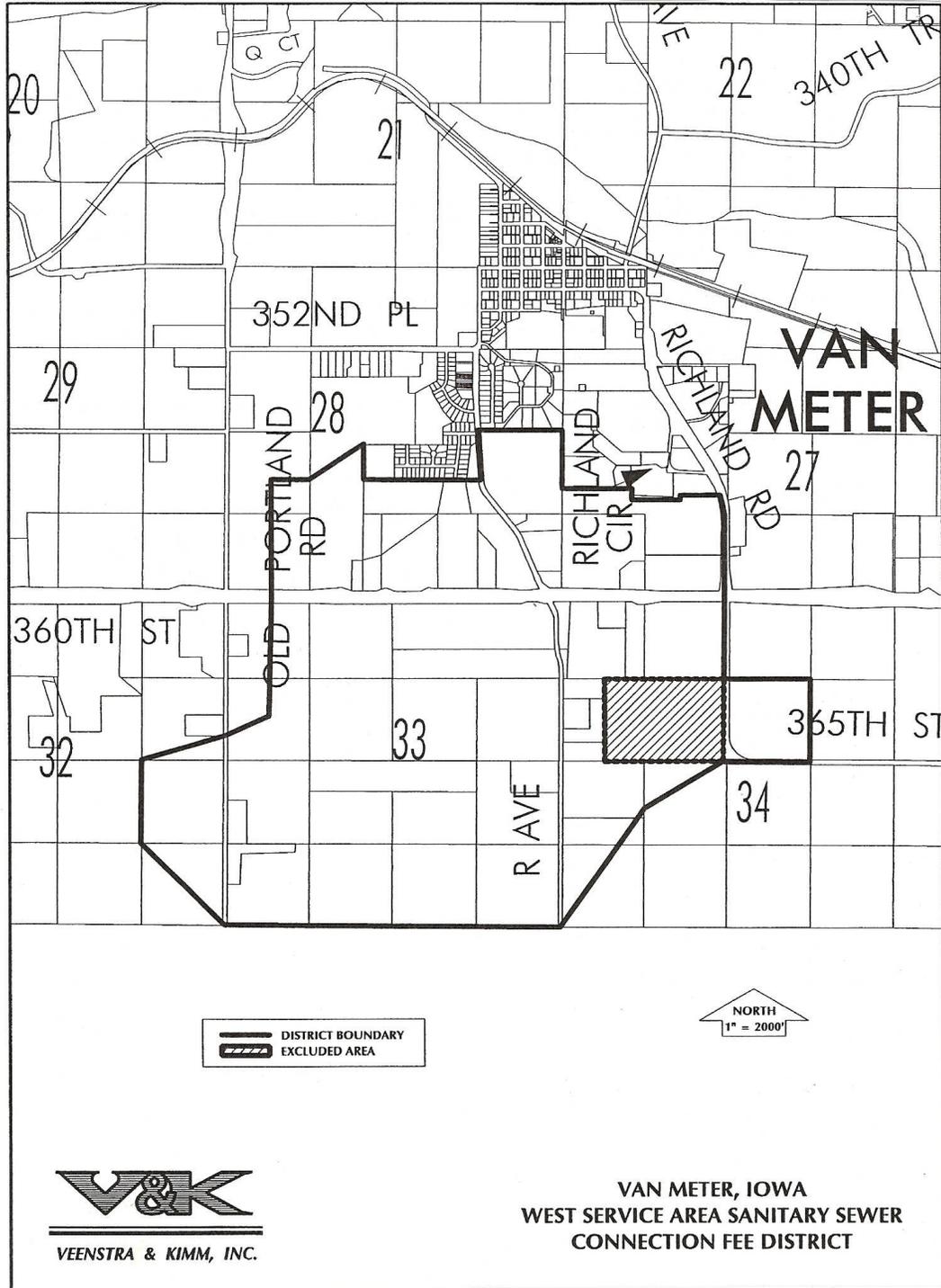
5. The per acre connection fee shall be imposed on the gross area of any final plat and shall not exclude areas set aside for streets, public right-of-way or for any other purpose.

6. Any-single family residence existing or under construction upon the effective date of Ordinance No. 181 located upon a parcel in excess of one acre may apply for connection upon payment of a single one-acre connection fee. Payment of a single one-acre connection fee shall be applicable only to the single residence. Any future development of said parcel shall necessitate a revised application for connection and

payment of the appropriate connection fee. At the discretion of the City this provision may be extended to any single-family residence constructed after said effective date.

7. The City shall be responsible for the design and construction of the primary trunk sewers to serve the West Service Area Sanitary Sewer Connection Fee District. Other sewers required to provide sewer service to individual properties within the connection fee district, including smaller trunk sewers, shall not be the responsibility of the City to design or construct under the provisions of the West Service Area Sanitary Sewer Connection Fee District.

EXHIBIT A



[The next page is 435]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.08 Open Dumping Prohibited
105.02 Definitions	105.09 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.10 Waste Storage Containers
105.04 Health and Fire Hazard	105.11 Prohibited Practices
105.05 Open Burning Restricted	105.12 Recycling Program
105.06 Separation of Yard Waste Required	105.13 Sanitary Landfill
105.07 Littering Prohibited	

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

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

1. “Bulky waste” means material with a weight or volume greater than that allowed for containers but not including construction debris.
2. “Collector” means any person authorized to gather solid waste from public and private places.
3. “Construction debris” means waste building materials resulting from construction, remodeling, repair or demolition operations.
4. “Discard” means to place, cause to be placed, throw, deposit or drop.
(Code of Iowa, Sec. 455B.361[2])
5. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
6. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
7. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.
(IAC, 567-20.2[455B])
8. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.
(Code of Iowa, Sec. 455B.361[1])
9. “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.

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

(IAC, 567-100.2)

11. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including two (2) separate dwelling units.

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

15. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

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

16. “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 subsection one of Section 321.1 of the Code of Iowa.

17. “White goods” means air conditioners, (window and central), clothes dryers, clothes washers, dehumidifiers, dishwashers, furnaces, kitchen ranges, microwave ovens, ovens/stoves, refrigerators, freezers, thermostats and water heaters. A residential refrigerator/freezer is one that contains less than 4 pounds of refrigerant. All refrigerators, air conditioners, and dehumidifiers used in a typical family home fall in this category.

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

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

(Code of Iowa, Ch. 657)

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

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *International Fire Code*.

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or placed in bags or bundles and set out for collection. Bags of grass and leaves shall not weigh more than 35 pounds. Brush shall be placed in boxes or bags not exceeding 35 pounds in weight or tied into bundles not exceeding 3 feet in length or 35 pounds in weight. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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

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

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

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

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

(IAC, 567-100.2)

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

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be not more

than thirty (30) gallons in capacity, and shall be leakproof and waterproof. The total weight of any container and contents shall not exceed thirty-five (35) pounds. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices. In lieu of using such containers, customers may rent a 90-gallon reusable toter from the contractor.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial, industrial, or institutional premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed within five feet of curb or alley line by the owner or occupant of the premises served. No more than seven containers or bags or one 90-gallon toter shall be collected each week. Any additional containers or toters set out for collection shall be negotiated with the collector and any additional charge paid directly to the collector.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 RECYCLING PROGRAM. The City shall provide for the collection of recyclable material in accordance with the provisions of the contract between the City and the collector. All recyclable material shall be separated and prepared for collection in accordance with the rules and regulations as established by the collector.

105.13 SANITARY LANDFILL. The Council, by resolution, shall designate the official sanitary landfill for the disposal of solid waste generated within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

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

106.06 Right of Entry
106.07 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 leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

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

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with the contract with the collector. It is the responsibility of the customer to negotiate the collection and charge for bulky rubbish, white goods, tires, batteries, used motor oil and other such special items.

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

106.07 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 and recyclables 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 therefor in accordance with the following table of rates:

	Service	For Each Yard Collected
Residential	\$15.48	
Extra Residential Solid Waste Cart Rental	\$7.00	
Extra Residential Recycling Cart Rental	\$5.00	
Extra Bag Sticker	\$1.00	
Bulky Item Sticker	\$5.00	
Commercial Light Use 1X/Week	\$24.46	
Commercial Light Use 2X/Week	\$48.92	
Commercial Heavy Use 1X/Week	\$33.68	\$5.75
Commercial Heavy Use 2X/Week	\$67.36	\$5.75

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Residential Fee. This fee shall include curbside recycling, for each residential premises and for each dwelling unit of a multiple-family dwelling not utilizing a bulk storage container.
2. Commercial Fees. The fees for commercial, industrial and institutional premises shall be in accordance with the following:
 - A. The light commercial or industrial uses shall apply to premises utilizing standard curbside collection of containers or bags which shall not include curbside recycling.
 - B. The heavy commercial or industrial use shall apply to industrial and institutional premises utilizing bulk storage containers.

1. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

(Ch. 106 - Ord. 228 – June 13 Supp.)

106.09 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the 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

110.02 Regulatory Power of City

110.01 FRANCHISE GRANTED. Midwest Gas, a division of Midwest Power Systems, Inc., a corporation, its successors and assigns are hereby granted and vested with the right, franchise and privilege for a period of twenty-five (25) years from and after the adoption and approval of the ordinance codified by this chapter,[†] as provided by law, to acquire, construct, operate and maintain in the City a gas plant or plants, gas transmission, storage and distribution systems and related equipment and appurtenances, used or to be used in the production, storage, transmission or distribution of natural gas, liquefied petroleum gas, or other hydrocarbon gases, or any mixture of gases for public and private use and to construct and maintain such gas utilities over, across and under the streets, highways, avenues, alleys and public places the necessary fixtures and equipment for such purposes, and for the term of the franchise the Company is further granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company.

110.02 REGULATORY POWER OF CITY. The franchise shall not be exclusive and shall not restrict in any manner the right of the Council or any other governing body of the City in the exercise of any regulatory power which it may now have or hereafter be authorized or permitted by the laws of the State.

[†] **EDITOR'S NOTE:** Ordinance No. 117 adopting a natural gas franchise for the City, was passed and adopted on March 13, 1995.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted

111.02 Compliance and Rights

111.03 Regulatory Power of City

111.01 FRANCHISE GRANTED. Midwest Power, a division of Midwest Power Systems, Inc., a corporation, its successors and assigns are hereby granted and vested with the right, franchise and privilege for a period of twenty-five (25) years from and after the adoption and approval of the ordinance codified by this chapter,[†] as provided by law, to acquire, construct, operate and maintain in the City the necessary facilities for the production, distribution, transmission and sale of electric energy for public and private use and to construct and maintain along, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary fixtures and equipment for such purposes, and for the term of the franchise the Company is further granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company.

111.02 COMPLIANCE AND RIGHTS. All construction, exclusive of distance from buildings and other structures, shall be in compliance with the standards of the *Iowa Electrical Safety Code* as adopted by the Iowa Utilities Board. Grantee shall have the right to trim or remove trees when reasonably necessary to efficiently operate its plant and render service.

111.03 REGULATORY POWER OF CITY. The franchise shall not be exclusive and shall not restrict in any manner the right of the Council or any other governing body of the City in the exercise of any regulatory power which it may now have or hereafter be authorized or permitted by the laws of the State.

[†] **EDITOR'S NOTE:** Ordinance No. 118 adopting an electrical energy franchise for the City, was passed and adopted on March 13, 1995.

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CHAPTER 112

CABLE TELEVISION FRANCHISE

112.01 Grant of Franchise

112.02 Assignment or Transfer

112.01 GRANT OF FRANCHISE. A nonexclusive right is hereby granted to Heritage, its successors and assigns, to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of twenty-five (25) years,[†] in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. To sell and supply audio and video communication service to persons within the City;
2. To use public property within the City for the purpose of installation, maintenance, repair or operation of the cable television system;
3. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

112.02 ASSIGNMENT OR TRANSFER. Heritage shall not assign or transfer any right granted under this franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the company shall have the right to assign the franchise to a corporation wholly owned by the company or to a limited partnership of which the company or other wholly owned subsidiary of Heritage Communications, Inc. is a general partner without prior consent of the City.

[†] **EDITOR'S NOTE:** Ordinance No. 67, adopting a cable television franchise for the City, was passed and adopted on July 19, 1982.

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CHAPTER 113

CABLE TELEVISION REGULATIONS

113.01	Definitions	113.21	Performance Standards
113.02	Use of Property	113.22	Channel Capacity and Performance
113.03	Taxes	113.23	Installation and Maintenance of Subscriber Terminals in City Buildings and Schools
113.04	Insurance	113.24	Telecast of Educational Activities
113.05	Repairs	113.25	Program Alteration
113.06	Hold Harmless	113.26	Subscriber Rates and Charges
113.07	Assignment	113.27	Service Rules and Regulations
113.08	Insolvency of Grantee	113.28	Service Agreements
113.09	Default of Grantee	113.29	Payments to City
113.10	Termination	113.30	Injury to Property of Grantee
113.11	Compliance with Applicable Laws	113.31	Intercepting Signals of Grantee
113.12	Installation and Maintenance of Property of Grantee	113.32	Filing of Reports
113.13	Interference	113.33	Filing of Maps and Plats
113.14	Installation of Cables	113.34	Filing of Communications with Regulatory Agencies
113.15	Restoration of Ground Surface	113.35	Access
113.16	Alteration of Grade	113.36	Discrimination Prohibited
113.17	Temporary Removal of Cables	113.37	Other Business Activities Prohibited
113.18	Tree Trimming	113.38	Arbitration
113.19	Line Extensions	113.39	Reservations
113.20	Service Requirements		

113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Cable television system” means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. “FCC” means the Federal Communications Commission.
4. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. “Grantee” means Heritage Communications, Inc., d/b/a Heritage Cablevision, Inc., a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Grantee” means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
6. “Property of the Grantee” means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.
7. “Public property” means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

113.02 USE OF PROPERTY. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable thereto.
2. The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
 - A. Impair the owner's interest in or title thereto;
 - B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;
 - C. Adversely affect the then value or character thereof;
 - D. Cause or be likely to cause structural damage thereto, or any part thereof;
 - E. Cause or be likely to cause any damage or injury to any utility service available thereto;
 - F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;
 - G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or
 - H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

113.03 TAXES. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

113.04 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. **General Liability.** Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance in connection with the cable television system. The amount of such insurance shall be not less than \$100,000 as to any one person, \$300,000 as to any one occurrence for injury or death to persons, and \$100,000 for damages to property, with, as to Grantee, so-called umbrella coverage of at least \$5,000,000.
2. **Worker's Compensation.** Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.

3. **Automobile.** Automobile insurance with limits of not less than \$100,000/\$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000 covering all automotive equipment, with, as to Grantee, so-called umbrella coverage of at least \$5,000,000.
4. **Notice of Cancellation.** All of said insurance coverage shall provide a ten-day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.
5. **Copies Filed.** Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.
6. **Defense Costs.** The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

113.05 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

113.06 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or on account of any actual or alleged loss, damage or injury to any property whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (b) the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, and/or (c) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

113.07 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee or other wholly owned subsidiary of Heritage Communications, Inc. is a general partner without the prior consent of the City.

113.08 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into the possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within sixty (60) days

after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

113.09 DEFAULT OF GRANTEE. In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within thirty (30) days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

113.10 TERMINATION. In the event of termination or nonrenewal of the franchise, Grantee at its own expense will remove all coaxial cable, amplifiers and any other items of equipment which may have been installed from time to time, provided, however, that in the event that Grantee is successful in concluding a sale or transfer of its system to a successor or substituted grantee, Grantee shall be relieved of its obligation to perform under the terms of this section.

113.11 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

113.12 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE. During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

113.13 INTERFERENCE. The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with radio and television reception of persons who are not subscribers of the Grantee.

113.14 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

113.15 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced.

113.16 ALTERATION OF GRADE. In the event that, during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

113.17 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five (5) days' advance notice to arrange for such temporary cable changes.

113.18 TREE TRIMMING. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

113.19 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically non-compensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of thirty-five (35) homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

113.20 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the Grantee.

113.21 PERFORMANCE STANDARDS. The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

113.22 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

113.23 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS. During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location within such buildings as

may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

113.24 TELECAST OF EDUCATIONAL ACTIVITIES. The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

113.25 PROGRAM ALTERATION. Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

113.26 SUBSCRIBER RATES AND CHARGES. All basic rates and charges made by the Grantee for its services shall be fair, reasonable, just and uniform, designed to meet all necessary costs of service, including a fair rate of return on net valuation of its properties devoted thereto under efficient and economic management.

113.27 SERVICE RULES AND REGULATIONS. The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

113.28 SERVICE AGREEMENTS. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

113.29 PAYMENTS TO CITY. The Grantee shall pay to the City one percent (1%) of its annual basic monthly cable television service revenue for the service rendered to customers located within the City. For purposes of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval of the City. All payments as required by the Grantee to the City shall be made annually and shall be due 45 days after the close of the year.

113.30 INJURY TO PROPERTY OF THE GRANTEE. No person shall wrongfully or unlawfully injure the property of the Grantee.

113.31 INTERCEPTING SIGNALS OF THE GRANTEE. No person shall wrongfully or unlawfully intercept the signals of the Grantee.

113.32 FILING OF REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

113.33 FILING OF MAPS AND PLATS. On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

113.34 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall file with the City, copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

113.35 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

113.36 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

113.37 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

113.38 ARBITRATION. Any controversy between the City and the Grantee regarding the rights, duties and liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceedings under Section 113.10. Such arbitration shall be before three (3) disinterested arbitrators, one (1) named by the City, one (1) named by the Grantee, and one (1) named by the two (2) thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

113.39 RESERVATIONS. The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power.

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CHAPTER 114

REGULATION OF CABLE TELEVISION OPERATORS AND ESTABLISHMENT OF CUSTOMER SERVICE STANDARDS

114.01 Purpose	114.08 Enforcement of Customer Service Standards
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114.03 Administration of Rules and Regulations	114.10 Filing of Customer Service Complaints
114.04 Rate Regulation Proceedings	114.11 Cable Operator's Response to Service Complaint
114.05 Certification to FCC and Cable Operator	114.12 Failure to Cure Deficiency in Standards
114.06 Cable Programming Service Tier	114.13 Inconsistent Provisions
114.07 Delegation of Powers Permitted	

114.01 PURPOSE. The Cable Television Consumer Protection and Competition Act of 1992 [Public Law 102-385] amended the Communications Act of 1934 [as codified in 47 United States Code §§521 et seq.] and changed the manner in which cable television systems that are not subject to effective competition are regulated. The establishment of rates for the basic service tier and associated equipment now is subject to regulation by local governments acting as franchising authorities. It is determined that cable television operators doing business in the City should be subject to regulation by the City.

114.02 FRANCHISING AUTHORITY. The Council shall act as and shall exercise the powers of the Franchising Authority.

114.03 ADMINISTRATION OF RULES AND REGULATIONS. The Franchising Authority has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission, concerning Cable Rate Regulation, 47 Code of Federal Regulations §§76.900 et seq., as they currently read and hereafter may be amended, which are herewith incorporated by reference.

114.04 RATE REGULATION PROCEEDINGS. Any rate regulation proceedings conducted under Section 114.03 shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the Franchising Authority or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by this Code of Ordinances for such proceedings, and in order to provide for such opportunity for consideration of the views of any interested party, the Franchising Authority shall take the following actions:

1. The Franchising Authority shall publish in a newspaper of general circulation in the City, post in a conspicuous place in the City Hall, and mail, by certified mail, to the Cable Operator a public notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the Federal Communications Commission ("FCC").
2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the

deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the Franchising Authority is subject to review by the FCC.

3. The Franchising Authority shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The Franchising Authority may delegate by resolution the responsibility to conduct the proceeding to any duly qualified and eligible individual or entity. If the Franchising Authority or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may toll the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.

4. In the course of the rate regulation proceeding, the Franchising Authority may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The Franchising Authority may request proprietary information, provided that the Franchising Authority shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator.

6. The Franchising Authority may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by this Code of Ordinances to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

7. Upon termination of the rate regulation proceeding, the Franchising Authority shall adopt by resolution and release a written decision as to whether or not the rates or proposed rate increase are reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

8. The Franchising Authority may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase. However, the Franchising Authority may impose monetary fines on a Cable Operator that does not comply with a rate decision or refund order of the Franchising Authority, directed specifically at the Cable Operator, pursuant to the laws of the State of Iowa and Section 1.14 of this Code of Ordinances. Each day a given violation continues shall be considered a separate offense.

9. Consistent with FCC Rules and Regulations, the Franchising Authority's decision may be reviewed only by the FCC.

10. The Franchising Authority shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the laws of the State of Iowa, the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

114.05 CERTIFICATION TO FCC AND CABLE OPERATOR. The Franchising Authority filed with the FCC the required certification form (FCC Form 328) on December 14, 1993.

114.06 CABLE PROGRAMMING SERVICE TIER. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the Franchising Authority is not empowered to exercise rate regulation, the Cable Operator shall give notice to the Franchising Authority of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

114.07 DELEGATION OF POWERS PERMITTED. The Franchising Authority may delegate by resolution its powers to enforce this chapter to municipal employees or officers (the "cable official"). The cable official will have the authority to:

1. Administer oaths and affirmations;
2. Issue subpoenas;
3. Examine witnesses;
4. Rule upon questions of evidence;
5. Take or cause depositions to be taken;
6. Conduct proceedings in accordance with this chapter;
7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and
9. Take actions and make decisions or recommend decisions in conformity with this chapter.

114.08 ENFORCEMENT OF CUSTOMER SERVICE STANDARDS. The Franchising Authority shall enforce the customer service standards set forth in the FCC regulations promulgated in 47 Code of Federal Regulations §76.309(c), as they currently read and hereafter may be amended. The Cable Operator shall be subject to the customer service

standards of this chapter ninety (90) days after the Franchising Authority has provided the Cable Operator with written notice of its intent to enforce the standards.

114.09 CABLE TELEVISION CUSTOMER SERVICE STANDARDS. A Cable Operator shall be subject to the following customer service standards:

1. Cable System Office Hours and Telephone Availability.
 - A. The Cable Operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
 - (1) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
 - (2) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
 - B. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.
 - C. The Cable Operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
 - D. Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.
 - E. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.
2. Installations, Outages and Service Calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:
 - A. Standard installation will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
 - B. Excluding conditions beyond the control of the Cable Operator, the Cable Operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The Cable Operator must begin actions to correct the service problems the next business day after notification of the service problem.
 - C. The "appointment window" alternatives for installations, service calls, and the installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. The Cable

Operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

D. A Cable Operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

E. If a Cable Operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

3. Communications between Cable Operators and Cable Subscribers.

A. The Cable Operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Installation and service maintenance policies;
- (4) Instructions on how to use the cable service;
- (5) Channel positions of programming carried on the system; and
- (6) Billing and complaint procedures, including the address and telephone number of the Franchising Authority's office [City Hall].

Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Cable Operator. In addition, the Cable Operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by this subsection.

B. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the Cable Operator must respond to a written complaint from a subscriber within thirty (30) days.

C. Refund checks will be issued promptly, but no later than either:

- (1) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
- (2) The return of the equipment supplied by the Cable Operator if service is terminated.

D. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

4. Definitions.
 - A. “Normal business hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some weekend hours.
 - B. “Normal operating conditions” means those service conditions which are within the control of the Cable Operator. Those conditions which are *not* within the control of the Cable Operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which *are* ordinarily within the control of the Cable Operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
 - C. “Service interruption” means the loss of picture or sound on one or more cable channels.

114.10 FILING OF CUSTOMER SERVICE COMPLAINTS. Any customer may file a complaint regarding service with the Franchising Authority, which will, in turn, forward the complaint to the Cable Operator. Any customer may file a service complaint directly with the Cable Operator, in which event the Cable Operator shall, within five (5) days of receipt, forward a copy of the complaint to the Franchising Authority.

114.11 CABLE OPERATOR’S RESPONSE TO SERVICE COMPLAINT. The Cable Operator shall immediately respond to any customer’s service complaint, and shall, within thirty (30) days of its receipt of the complaint, cure any deficiency in the customer service standards prescribed in Section 114.09. The Cable Operator shall, within thirty (30) days of its receipt of the complaint and in writing, notify the Franchising Authority of the disposition of the complaint.

114.12 FAILURE TO CURE DEFICIENCY IN STANDARDS. Any Cable Operator which fails within thirty (30) days of receipt of a complaint to cure any deficiency in the customer service standards prescribed in Section 114.09 shall be subject to a monetary fine and other enforcement provisions of Section 1.14 of this Code of Ordinances. Each day a given violation continues shall be considered a separate offense.

114.13 INCONSISTENT PROVISIONS. Insofar as the provisions of this chapter are inconsistent with any other provisions of the Code of Ordinances, the provisions of this chapter shall be controlling.

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CHAPTER 115

CEMETERY

115.01 Definition

115.02 Public Works Department

115.03 Records

115.04 Sale of Interment Rights

115.05 Rules and Regulations

115.01 DEFINITION. The term “cemetery” means the Van Meter Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the Code of Iowa and which shall be operated under the provisions of Chapter 523I of the Code of Iowa and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 PUBLIC WORKS DEPARTMENT. The Public Works Department shall operate and maintain the cemetery in accordance with the rules and regulations therefor and under the direction of the Council.

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

115.03 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.04 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the Code of Iowa. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

115.05 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the Code of Iowa, or a resident of the State who served in the armed forces of the United States, completed a minimum aggregate of ninety days of active Federal service and was discharged under honorable conditions, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery.

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

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

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

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

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

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

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

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

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

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

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

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense

alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

120.06 AMUSEMENT DEVICES.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.
2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

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

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CHAPTER 122
PEDDLERS, SOLICITORS AND TRANSIENT
MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable

122.10 Time Restriction
122.11 Revocation of License
122.12 Notice
122.13 Hearing
122.14 Record and Determination
122.15 Appeal
122.16 Effect of Revocation
122.17 License Exemptions
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 which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of twenty-five dollars (\$25.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day.....\$ 25.00
 - B. For one week.....\$ 30.00
 - C. For up to six (6) months.....\$ 30.00
 - D. For one year or major part thereof\$ 30.00

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.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

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

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee’s local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and

notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

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. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Van Meter School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying general liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. \$1,000,000 per incident.
2. \$2,000,000 aggregate.

123.06 PERMIT FEE. A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Traveling on Barricaded Street or Alley

135.05 Use for Business Purposes

135.06 Washing Vehicles

135.07 Burning Prohibited

135.08 Excavations

135.09 Maintenance of Parking or Terrace

135.10 Failure to Maintain Parking or Terrace

135.11 Dumping of Snow

135.12 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 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.

135.05 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.06 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.

135.07 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.

135.08 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

- A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
- B. A statement of the purpose, for whom and by whom the excavation is to be made;
- C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
- D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

5. Insurance Required. The insurance to be maintained by the applicant shall be written as follows:

A. Worker's Compensation and Employers Liability Insurance as prescribed by Iowa law in minimum amounts shown below covering Employers Liability:

Bodily Injury by Accident	\$500,000 each accident
Bodily Injury by Disease	\$500,000 each accident
Bodily Injury by Disease	\$500,000 policy limit

B. Commercial General Liability Insurance, combined single limits shown below, covering Bodily Injury, Property Damage and Personal Injury:

General Aggregate Limit	\$2,000,000
Products – Completed Operations	
Aggregate Limit	\$2,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit (any one fire)	\$50,000
Medical Damage Limit (any one person)	\$ 5,000

- A. The insurance must include the following features:
- (1) Coverage for all premises and operations. The policy shall be endorsed to provide the Aggregate Per Project Endorsement.
 - (2) Personal and Advertising Injury.
 - (3) Operations by independent contractors.
 - (4) Contractual Liability coverage.
 - (5) Coverage for property damage underground or damaged by explosion or collapse (XCU).
- B. Automobile Liability Insurance, covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for Bodily Injury and Property Damage of \$1,000,000 per accident. Insurance must include Contractual Liability.
- C. Umbrella/Excess Insurance. The limits specified may be satisfied with a combination of primary and Umbrella/Excess Insurance.
- D. Additional Insured. The applicant shall include the City as additional insured on all policies except Worker's Compensation as respects all work performed for the jurisdiction.
- E. Insurance Certificates. Each policy noted above shall be issued by an insurance company authorized to write such insurance in the State of Iowa and shall be reasonably acceptable to the City. These insurance policies shall not be canceled without at least 10 days' prior written notice to the City. A properly executed Certificate of Insurance showing evidence of these insurance requirements shall be delivered to City prior to commencement of activity.
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, or resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing

the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Fee. A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

135.09 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.10 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.11 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.12 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

136.02 Definitions

136.03 Removal of Snow, Ice and Accumulations

136.04 Responsibility for Maintenance

136.05 City May Order Repairs

136.06 Sidewalk Construction Ordered

136.07 Permit Required

136.08 Sidewalk Standards

136.09 Interference with Sidewalk Improvements

136.10 Encroaching Steps

136.11 Openings and Enclosures

136.12 Fires or Fuel on Sidewalks

136.13 Debris on Sidewalks

136.14 Merchandise Display

136.15 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
2. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
3. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within forty-eight (48) hours after such accumulation, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street in accordance with the Sidewalk Inspection and Maintenance Policy adopted by resolution of the Council and on file in the office of Clerk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if

such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be constructed in accordance with the Standard Sidewalk Specifications adopted by resolution of the Council and on file in the office of the Clerk.

136.09 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.

136.10 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.

136.11 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.12 FIRES OR FUELS 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.

136.13 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])

136.14 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere

with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.15 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

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CHAPTER 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 Van Meter, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited

140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility
140.06 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.
(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.
(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.
(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows
(Code of Iowa, Sec. 306A.3)

1. Project No. 293-17-68-25. On the Primary Road System extension improvement, Project No. 293-17-68-25, Primary Road No. Iowa 293 (R-16) within the City, described as follows:

On the west side beginning at F-90 on the East Corporate Limits, thence northerly 479' and on both sides to Elm Street; on both sides of Elm Street from East Street to Wilson Street, thence northerly along Wilson Street to Grant Street, thence westerly along Grant Street to West Street.

Regulating access to and from Iowa 293 (R-16) from F-90 to West Street and to and from the abutting properties along the highway or street all in accordance with the plans for such improvement identified as Project No. 293-17-68-25, on file in the office of the Clerk.

Parking is prohibited on the west side of Mills Street from the Raccoon River to Elm Street, and on both sides of Elm Street from Mills Street to Wilson Street, thence northerly on Wilson Street to Main Street.

2. Parking is prohibited on the following streets as noted:
 - A. West side of Lakeview;
 - B. East side of Meyer Court;

- C. North side of Division;
- D. West side of Park Street;
- E. Either side of East Street;
- F. Either side of Elm Street;
- G. Either side of Main Street;
- H. East side of Van Buren;
- I. North side of Feller Curve;
- J. East side of Tracy;
- K. Either side of Hazel;
- L. Either side of the cul-de-sac of Circle Estates;
- M. North side of Kelsey;
- N. East side of Long;
- O. North side of Kaitlin;
- P. North side of Bulldog;
- Q. East side of Winston Circle;
- R. East side of Mason Circle;
- S. East side of Jerry Circle; and
- T. East side of Webster Circle.

(Ord. 216 – Jun. 16 Supp.)

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

140.06 PARKING RESTRICTED.

1. Parking is prohibited on the west side of Mills Street from the Raccoon River to Elm Street, and on both sides of Elm Street from Mills Street to Wilson Street, thence northerly on Wilson Street to Main Street.

2. A single line of parallel parking is permitted on each side on Wilson Street from Main Street to Grant Street, and on Grant Street from Wilson Street to West Street, with the following restrictions at intersections:

A. Parking is permitted on the primary road extension a distance of 55 feet in advance of the near crosswalks, and a distance of 22 feet beyond the far crosswalk.

B. Parking is prohibited on all minor street approaches for a distance of 35 feet in advance of the stop signs. Parking is prohibited on the exit sides of the minor streets for a distance of 35 feet beyond the far crosswalks.

(Ord. 216 – Jun. 13 Supp.)

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CHAPTER 145

MANUFACTURED AND MOBILE HOMES

145.01 Definitions

145.03 Foundation Requirements

145.02 Conversion to Real Property

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

145.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

145.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

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CHAPTER 150

TREES

150.01 Definition

150.02 Planting Prohibited

150.03 Duty to Trim Trees

150.04 Trimming Trees to be Supervised

150.05 Disease Control

150.06 Inspection and Removal

150.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

150.02 PLANTING PROHIBITED. No trees shall be planted in any parking or street.

150.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

150.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 150.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

150.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

150.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If

such owner, occupant or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 155

BUILDING CODE

155.01 Title
155.02 Administrative Provisions

155.03 Adoption of Codes
155.04 Conflict with State Laws

155.01 TITLE. This chapter shall be known as the Van Meter, Iowa, Building Code, and may be cited as such and is referred to herein as the “Building Code.”

155.02 ADMINISTRATIVE PROVISIONS. Administration of this chapter shall be as provided in this section and in the following sections for the several codes named herein, to provide procedures for local enforcement of the Building Code. The Building Official shall be appointed by the Mayor, subject to approval of the Council, for the enforcement of the codes adopted herein and such other ordinances as shall be assigned to said official, and the Building Official shall also perform such other duties as may be required by the Mayor and Council. The Building Official shall be accountable for the issuance of all applicable permits under this chapter and shall have the power to render interpretations of this chapter and to adopt and enforce rules and regulations supplemental to this chapter, subject to approval by the Council, as said official deems necessary in order to clarify the application of the provisions of this chapter. Such rules, regulations and interpretations shall be in conformity with the intent and purpose of this Building Code.

155.03 ADOPTION OF CODES. Pursuant to published notice and public hearing, as required by law, the following codes are hereby adopted as and shall constitute the Building Code, to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures in the City, and the same are by this reference incorporated herein as fully and completely as if set forth in full herein.

1. The *International Building Code*, 2006 Edition, as published by the International Code Council.
 - A. Sec. 101.1. Title. Insert “Van Meter, Iowa.”
 - B. Sec. 101.4.1. Electrical. After ICC Electrical Code insert “and National Electrical Code, 2005 Edition, as published by the National Fire Protection Assoc.”
 - C. Sec. 104.11. Alternative methods. After paragraph insert “The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction is hereby adopted for installation of mobile (manufactured) homes.”
 - D. Sec. 108.2. Fees. After “in accordance with the,” insert “schedule of Building Permit Fees as established by Van Meter, Iowa.”
 - E. Sec. 108.3. Valuations. At the end of last sentence, delete period and insert “using the latest Building Valuation Data Sheet.”
 - F. Sec. 1612.3. Insert “Van Meter, Iowa.”
 - G. Sec. 1612.3. Insert “January 19, 2000 (date of latest flood map).”

- H. Sec. 3109.3. Swimming pools. Delete 4 feet and insert “5 feet.”
 - I. Sec. 3109.4.1. Barrier height. Delete 4 feet and insert “5 feet.”
 - J. Sec. 3409.2. Insert “March 14, 2000.”
2. The *International Mechanical Code and Appendix Chapters*, 2006 Edition, as published by the International Code Council.
- A. Sec. 101.1. Title. Insert “Van Meter, Iowa.”
 - B. Sec. 106.5.2. Fee schedule. Insert “Van Meter, Iowa, Schedule of Mechanical Permit Fees.”
 - C. Sec. 108.4. Penalties. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”
 - D. Sec. 108.5. Stop work. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”
3. The *International Plumbing Code and Appendix Chapters*, 2006 Edition, as published by the International Code Council.
- A. Sec. 101.1. Title. Insert “Van Meter, Iowa.”
 - B. Sec. 106.6.2. Fee schedule. Insert “Van Meter, Iowa, Plumbing Permit Fees.”
 - C. Sec. 108.4. Penalties. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”
 - D. Sec. 108.5. Stop work. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”
 - E. Sec. 305.6.1. Insert “42 inches” in two places.
 - F. Sec. 904.1. Insert “12 inches.”
4. The *National Electrical Code and Appendix Chapters*, 2008 Edition, as published by the National Fire Protection Association.
- A. Permit fees for electrical work shall be according to the electrical fee schedule.
- (Ord. 207 – Mar. 10 Supp.)*
5. The *International Fire Code and Appendix Chapters*, 2006 Edition, as published by the National Fire Protection Association.
- A. Sec. 101.1. Title. Insert “Van Meter, Iowa.”
 - B. Sec. 109.3. Penalties. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”
 - C. Sec. 111.4. Stop work. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”

6. The *Life Safety Code and Annex A & B*, 2006 Edition, as published by the National Fire Protection Association.
 7. The *International Property Maintenance Code*, 2006 Edition, as published by the International Code Council.
 - A. Sec. 101.1. Title. Insert “Van Meter, Iowa.”
 - B. Sec. 103.5. Fees. After “as indicated in the following schedule.” insert “Schedule of fees as established by Van Meter, Iowa.”
 - C. Sec. 302.4. Weeds. Insert “10 inches.”
 - D. Sec. 303.14. Screens. Insert “April 15” and “September 15.”
 - E. Sec. 602.3. Heat. Delete “during the period from (date) to (date).”
 - F. Sec. 602.4. Work spaces. Delete “during the period from (date) to (date).”
- (Ord. 200 – Mar. 10 Supp.)*
8. The *International Residential Code for One and Two Family Dwellings and Appendices*, 2006 Edition, as published by the International Code Council.
 - A. Sec. R101.1. Title. Insert “Van Meter, Iowa.”
 - B. Sec. R104.11. Alternative methods. After paragraph insert “The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction is hereby adopted for installation of manufactured (mobile) homes.”
 - C. R108.2. Permit fees. After “in accordance with the,” insert “Building Permit Fees established by Van Meter, Iowa.”
 9. The *International Energy Conservation Code and Appendix Chapters*, 2006 Edition, as published by the International Code Council.
 - A. Sec. 101.1. Title. Insert “Van Meter, Iowa.”
 10. The *International Fuel Gas Code and Appendices*, 2006 Edition, as published by the International Code Council.
 - A. Sec. 101.1. Title. Insert “Van Meter, Iowa.”
 - B. Sec. 105.5.2. Fee schedule. Insert “Per the fee schedule adopted for mechanical and plumbing permit fees.”
 - C. Sec. 108.4. Penalties. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”
 - D. Sec. 108.5. Stop work. Insert “Violation of the Code is a municipal infraction subject to the penalty set out in Chapter 3 of the Code of Ordinances of the City of Van Meter, Iowa.”
 11. The *International Existing Building Code and Appendix Chapters*, 2006 Edition, as published by the International Code Council.
 - A. Sec. 101.2. Title. Insert “Van Meter, Iowa.”
 - B. Sec. 108.2. Permit fees. Delete after “established,” and insert “for the various disciplines herein adopted.”

(Ord. 196 – Dec. 08 Supp.)

155.04 CONFLICT WITH STATE LAWS. Nothing in this chapter shall be construed to be in conflict with State laws. In the event of such conflict, the State law shall prevail.

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CHAPTER 156

RENTAL HOUSING CODE

156.01 Definitions	156.15 Designation of Unfit Dwelling Unit; Condemnation
156.02 Title and Purpose	156.16 Vacated Immediately
156.03 Scope	156.17 Elimination of Defects
156.04 Housing Code	156.18 Defacing or Removal of Placard
156.05 Applications for Rental Housing Compliance Certificate	156.19 Authority to Execute
156.06 Additional Inspections	156.20 Action to Enjoin
156.07 Inspection Fees for Additional Inspections	156.21 Injunction
156.08 Entrance and Survey of Buildings	156.22 Eviction; Lease Termination
156.09 Rental Housing Compliance Certificate Required	156.23 Duties of Occupant
156.10 Issuance Duration Validation	156.24 Notice of Actions
156.11 Certificate Displayed; Transferability	156.25 Rent Collections
156.12 Notice on Sale of Dwelling Unit	156.26 City Liability
156.13 Name and Address of Agent Filed	156.27 Violation Constitutes a Municipal Infraction
156.14 Emergency Orders	156.28 Additional Liability
	156.29 Appeal
	156.30 Prohibition on Retaliatory Evictions

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

1. “Apartment house” or “apartment building” means any building or portion thereof which is designed, rented, leased, let or hired out to be occupied or which is occupied as a two-family or multiple-family dwelling as defined in the Zoning Ordinance of the City.
2. “Building Inspector” means a person retained or employed by the City to enforce the provisions of this chapter. Such person shall be the Building Official appointed pursuant to Section 155.02 of this Code of Ordinances.
3. “Dwelling” means any house or building or portion thereof which is occupied in whole or part as a home or residence of one or more tenants, on a rental basis or in return for housing a tenant agrees to occupy and maintain the premises. The term encompasses a “dwelling” as defined in the Zoning Ordinance. Payment of utilities is not required under the terms of this chapter for a property to be considered a “dwelling” within the meaning of this chapter. No part of a building hereafter constructed or altered into a dwelling as described may be occupied in whole or in part for human habitation until the issuance of a rental housing compliance certificate by the City Building Inspector that such part of the dwelling conforms to the requirements of this chapter. A dwelling unit that is being rented for a period of 90 days or less in a single calendar year or a portion of such dwelling unit is exempt from this chapter.
4. “Dwelling unit” means one or more habitable rooms in a dwelling, apartment house or building which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking or eating. The term encompasses a “dwelling unit” as defined in the Zoning Ordinance.
5. “Rental housing compliance certificate” means the certificate that is issued within fourteen (14) days after written application for a dwelling unit if the dwelling unit at the date of such application is entitled thereto.
6. “Tenant” means a person occupying a dwelling unit who pays, or has payments made on the individual’s behalf, a stated payment at fixed intervals for the

use of the dwelling unit. The term includes a person occupying a dwelling unit owned by another individual, who in return for housing agrees to occupy and maintain the premises. Payment of utilities is not required under the terms of this chapter for a person to be considered a “tenant” within the meaning of this chapter.

156.02 TITLE AND PURPOSE. This chapter shall be known as the City of Van Meter Rental Housing Code. The purpose of this chapter is to ensure that rental housing facilities and the conditions of such facilities are of sufficient quality to protect and promote the health, safety and welfare of those persons utilizing such housing as well as the general public.

156.03 SCOPE. The provisions of this chapter shall be deemed to apply to all dwellings as defined in this chapter or portions thereof used or designed or intended to be used for human habitation. All occupancies in existing buildings may be continued except in such structures that are found to be substandard as defined in this chapter. Where any building or portion thereof is used or intended to be used as a combination apartment house/hotel, the provisions of this chapter shall apply to the separate portions as if they were separate buildings. Every rooming house or lodging house shall comply with all of the requirements of this chapter applicable to dwellings.

156.04 HOUSING CODE. The *International Property Maintenance Code*, 2006 Edition, as published by the International Code Council, adopted in Chapter 155 of this Code of Ordinances, shall constitute the City’s Housing Code. In the event of an express conflict between the provisions of this chapter and such Housing Code, the provisions of this chapter shall apply.

(Ord. 196 – Dec. 08 Supp.)

156.05 APPLICATIONS FOR RENTAL HOUSING COMPLIANCE CERTIFICATE. Every person that offers for rent a dwelling unit within the City shall submit to the Clerk, on forms provided by the City, an application requesting a rental housing compliance certificate. Such application shall be accompanied by a registration fee in an amount established by Council resolution. When inspections are due, the person that offers for rent a dwelling unit must contact the Building Inspector to schedule an inspection and at that time the inspection fee is due. If the premises fails to comply, the Building Inspector shall notify the applicant in writing, stating the reasons for such noncompliance. The landlord shall have 30 days after receipt of noncompliance to correct the deficiencies and schedule a re-inspection. Fees for re-inspection shall also be established by the Council resolution.

156.06 ADDITIONAL INSPECTIONS. The Building Inspector is empowered to make inspections of all rental dwelling units as frequently or infrequently as may be necessary and may make inspection at any reasonable time on a written complaint submitted by the owner, tenant or other person concerning the dwelling unit.

(Ch. 156 - Ord. 229 – June 13 Supp.)

156.07 INSPECTION FEES FOR ADDITIONAL INSPECTIONS.

1. When an inspection is made at the request of the owner, an inspection fee as provided in 156.05 shall be charged. If an inspection is made at the written request of a tenant and the dwelling unit is found to be in noncompliance due to an omission of the owner, such owner shall be responsible for the re-inspection fee. No inspection shall be conducted at the request of a tenant unless the tenant has first submitted the complaint in writing to the landlord no less than seven (7) days before making such

complaint to the Building Inspector. If, after a written complaint by the tenant, the dwelling unit is found to comply or if such noncompliance is due to conduct on the part of the tenant, the tenant shall be liable for the cost of such inspection. If such costs are not paid by the tenant within thirty (30) days from the date of billing, the City may initiate an action at law or in equity to recover the same, in which event the tenant shall be liable for reasonable attorney fees incurred in the prosecution of the action. No fee shall be charged to the owner for such inspection.

2. In the event an inspection is initiated by the City or at the written request of a person other than the owner or tenant, and if the dwelling unit is found to be in noncompliance, the owner shall be liable for such inspection fees. No inspection shall be conducted at the request of a person other than the owner or tenant unless that person has first submitted the complaint in writing to the landlord no less than seven (7) days before making such complaint to the Building Inspector. In the event that on the date of the inspection the dwelling unit complies with the provisions of this chapter, no fee shall be charged. In the event that on the date of inspection a dwelling unit fails to comply with the provisions of this chapter which necessitates additional inspections, the owner shall be liable for the cost of such re-inspection.

156.08 ENTRANCE AND SURVEY OF BUILDINGS. The Building Inspector and any such other person as may be deemed necessary by the Building Inspector may, without fee except as provided in Section 156.08, enter, examine, make necessary records, and survey all dwellings units within the City. If entry into the interior portion of a dwelling unit is required, seventy-two (72) hours' notice shall be given by the Building Inspector to the owner and tenant. The owner, owner's agent or representative, and the lessee and occupant of every dwelling unit and every person having the care and management of the same shall, at all reasonable times when required by the Building Inspector and such other person, give the Building Inspector and such other person free access to such dwelling unit and premises. The owner of a dwelling unit and owner's agents and employees shall have right of access to such dwelling units at reasonable times for the purpose of bringing about compliance with the provisions of this chapter or any order issued hereunder.

156.09 RENTAL HOUSING COMPLIANCE CERTIFICATE REQUIRED. All owners of dwelling units shall register such dwelling units with the City Clerk. No person shall rent, lease, operate or otherwise allow the occupancy of any dwelling unit unless such person holds a Rental Housing Compliance Certificate as required by this chapter.

156.10 ISSUANCE DURATION VALIDATION. If a dwelling unit fails to comply under Section 156.10 and if the dwelling unit and premises are found later to comply with the requirements of this chapter upon re-inspection, the Building Inspector shall issue a Rental Housing Compliance Certificate.

156.11 CERTIFICATE DISPLAYED; TRANSFERABILITY. Rental Housing Compliance Certificates shall be transferable to succeeding owners. They shall be displayed by the owner for the tenant to examine before the dwelling unit may be rented, leased or otherwise occupied.

156.12 NOTICE ON SALE OF DWELLING UNIT. Every person holding a Rental Housing Compliance Certificate under this chapter shall give notice in writing to the Building Inspector within ninety-six (96) hours after having sold, transferred, conveyed or otherwise disposed of the ownership, interest in or control of any dwelling unit. This notice shall include the name and address of the person succeeding to the ownership or control thereof.

156.13 NAME AND ADDRESS OF AGENT FILED. Every owner, agent or lessee of a dwelling unit shall file with the Clerk a notice containing the name and address of an agent of such dwelling unit for the purpose of receiving service of all notices required by this chapter.

156.14 EMERGENCY ORDERS. Whenever the Building Inspector finds that an emergency exists which threatens immediately the public health, safety or welfare, the Building Inspector may issue an order reciting the existence of such an emergency and requiring that such action be taken as the Building Inspector deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

156.15 DESIGNATION OF UNFIT DWELLING UNIT; CONDEMNATION. No person shall let to another for occupancy any dwelling unit for the purpose of living, inhabiting, sleeping, cooking or eating thereon which does not comply with the following requirements. Any dwelling unit which is found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector.

1. One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it creates a serious hazard to the health, safety or welfare of the occupants or the public.
2. One which lacks illumination, ventilation or sanitation facilities adequate to protect the health, safety or welfare of the occupants or of the public.
3. One which, because of its general condition or location is unsanitary or otherwise dangerous to the health, safety or welfare of the occupants or of the public.

156.16 VACATED IMMEDIATELY. Any dwelling unit or any portion thereof condemned as unfit for human habitation and so designated and placarded by the Building Inspector shall be vacated immediately as ordered by the Building Inspector. The Building Inspector shall notify the Clerk of such action prior to placarding the dwelling unit.

156.17 ELIMINATION OF DEFECTS. No dwelling unit or any portion thereof which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from and such placard is removed by the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

156.18 DEFACING OR REMOVAL OF PLACARD. No person shall deface or remove the placard from any dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in this chapter.

156.19 AUTHORITY TO EXECUTE. In case any notice or order issued by the City is not complied with, the Building Inspector may recommend that the City apply to the Iowa District Court for Dallas County to institute an action for an order authorizing the City to execute and carry out the provisions of the notice or order to correct any violation specified in the notice or order to abate any nuisance in or about the dwelling unit.

156.20 ACTION TO ENJOIN. In case any dwelling unit, building or structure is constructed, altered, converted or maintained in violation of any provisions of this chapter or of any order or notice of the Building Inspector, or in case a nuisance exists in any such dwelling unit, building or structure or upon the lot on which it is situated, the City may cause

the institution of any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation, or nuisance, or to prevent the occupation of the dwelling unit, building or structure, or to prevent any illegal act, or to prevent the conduct of business in or about such dwelling unit or lot.

156.21 INJUNCTION. In any such action or proceeding, the Building Inspector may, by a statement duly verified setting forth the facts, request that the City apply to the Iowa District Court for Dallas County for an order granting the relief for which the action or proceeding is brought, or for an order enjoining any persons from doing or permitting to be done any work in or upon such dwelling unit, building, structure or lot, or from occupying or using the same for any purpose until the entry of final judgment or order.

156.22 EVICTION; LEASE TERMINATION. If the occupant of a dwelling fails to comply with the provisions of this chapter after due and proper notice from the Building Inspector or from the owner, such failure to comply shall be deemed sufficient cause for the eviction of such occupant by the owner and for cancellation of the occupant's lease.

156.23 DUTIES OF OCCUPANT. It is unlawful for any tenant to deliberately or recklessly destroy, deface, damage or remove a part of the premises or to knowingly permit any other person to do so, or to remove without permission of the landlord any furniture or other items of personal property belonging to the landlord or owner or to cause damage resulting in noncompliance with this chapter.

156.24 NOTICE OF ACTIONS. In any action brought by the City in relation to a dwelling unit or injunction, vacation of the premises, or abatement of nuisance or to establish a lien thereon, or to recover a civil penalty, service of notice shall be in the manner provided by law for the service of an original notice.

156.25 RENT COLLECTIONS. Rent shall not be recoverable by the owner or lessee of any dwelling unit which does not comply with the provisions of this chapter until the City gives written notice to the owner and occupant that such dwelling unit has been issued a valid Rental Housing Compliance Certificate as required by this chapter.

156.26 CITY LIABILITY. The City, its agents and employees are not liable for damages to a person or property as a result of any act or failure to act in the enforcement of this chapter. This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any equipment or structure regulated herein for damages to a person or property caused by its defects, nor shall the City, its agents or employees be held liable by reason of the registration, inspection, re-inspection, or approval authorized by this chapter.

156.27 VIOLATION CONSTITUTES A MUNICIPAL INFRACTION. The owner of any dwelling unit or of any building or structure upon the same lot with a dwelling unit, or of the lot, which violates this chapter shall be guilty of a municipal infraction as defined in Chapter 3 of this Code of Ordinances. An owner who creates or knowingly permits the existence of such violation, or any tenant or occupant who shall violate or assist in violating any provisions of this chapter, shall also be jointly and severally liable for each such violation. Such person or persons and also the premises shall be liable in such case for all costs, expenses and disbursements paid or incurred by the Building Department, including attorneys' fees, paid or incurred by the City, by any of the officers, agents or employees thereof, in the removal of any such nuisance or violation.

156.28 ADDITIONAL LIABILITY. Any person who, having been served with a notice or order to remove any such nuisance or violation, fails to proceed in good faith to comply with the notice or order within five (5) days after such service, or continues to violate any provisions or requirements of this chapter or other provisions of this Code of Ordinances shall also be subject to a civil penalty of as set out in Section 156.28. For the recovery of such penalties, costs, expenses or disbursements, an action may be brought in a court of competent civil jurisdiction.

156.29 APPEAL. Decisions of the Building Inspector may be appealed to the Housing Appeals Board. The Housing Appeals Board shall consist of the same members as the Board of Adjustment but which shall constitute a separate body. The Housing Appeals Board shall adopt rules and regulations to conduct their meetings and effectuate this chapter. Such rules shall include incorporation of Iowa Code Chapter 21 requirements regarding open meetings but shall not include a requirement that notice be published unless otherwise required by State law. The Chair of the Board of Adjustment shall serve as the administrative officer of the Board and shall sit at all meetings and hearings as the presiding officer.

1. Any person claiming to be aggrieved by any notice or order served upon that person under this chapter may file with the City Clerk a written appeal, requesting a hearing before the Housing Appeals Board.
2. The appeal must be in writing and explicitly indicate which item on the notice or order of the Building Inspector the appellant is contesting. The appeal must be accompanied by a check made payable to the City Clerk in the sum of fifty dollars (\$50.00), which fee is nonrefundable unless the Housing Appeals Board reverses the notice or decision of the Building Inspector in its entirety.
3. The appeal shall be filed within 5 days after a person has received a notice or order from the Building Inspector. A notice or order under this chapter shall advise the person of the opportunity to be heard, the manner in which appeals under this chapter are to be filed, the amount of the appeal fee, the right to produce witnesses on such person's own behalf, and the right to counsel.
4. After receiving an appeal filed under this chapter, the City Clerk shall immediately notify the presiding officer of the Housing Appeals Board. The presiding officer shall set the time, place, and date of hearing and notify the appellant, other members of the Board, and the Building Inspector of the details concerning such hearing. The presiding officer may change the time, place, and date for such hearing upon good cause shown.
5. At the hearing, the appellant shall be afforded an opportunity to be heard, have the right to produce witnesses, and be represented by counsel. The Housing Appeals Board shall also receive evidence from the Building Inspector. After receiving all relevant evidence to the specific issue identified in the appeal, the Housing Appeals Board shall submit to both the appellant and the Building Inspector the written ruling within three days of the hearing.
6. Until the ruling of the Housing Appeals Board has been received, all proceedings except a vacation order under this chapter shall be stayed.
7. Failure to appeal shall constitute a waiver of the appellant's rights and shall be considered an adjudication adverse to the appellant.

156.30 PROHIBITION ON RETALIATORY EVICTIONS. No person shall maintain an action for eviction, threaten such an action or otherwise harass a tenant who occupies property

owned by such person, or the person's principal or employer, as a result of a tenant's report of a violation of this chapter or a related provision of this Code of Ordinances to the Building Inspector, any City employee or City officer.

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CHAPTER 157

FLOOD PLAIN REGULATIONS

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157.01 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 flood losses with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
2. 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.
3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
4. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

157.02 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. “Base flood” means the flood having one percent (1%) chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “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.”
3. “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 or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the first flood plain

management regulations adopted by the community. May also be referred to as “existing structure.”

5. “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) was completed before the effective date of the first flood plain management regulations adopted by the community.

6. “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).

7. “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.

8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. “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.

10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “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.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” 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.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains 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.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. “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 in 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 by either (i) 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.
18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 157.11(4)(A); 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 100-year flood level; and
 - D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “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 flood plain management regulations adopted by the community.
20. “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 flood plain management regulations adopted by the community.

21. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.
22. “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.
23. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map.
24. “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.
25. “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 and other similar uses.
26. “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 fifty percent (50%) of the market value of the structure before the damage occurred.
27. “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 fifty percent (50%) 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. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any

alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after the effective date of the flood plain 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 twenty-five percent.

28. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

29. “Violation” means the failure of a structure or other development to be fully compliant with this chapter.

157.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands within the jurisdiction of the City shown on the Official Flood Plain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain and Shallow Flooding (Overlay) Districts. The Flood Insurance Rate Map (FIRM) prepared as part of the Flood Insurance Study for Dallas County and Incorporated Areas, City of Van Meter, Panels 0340 and 0345, dated December 4, 2007, is hereby adopted by reference and declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this chapter.

157.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Flood Plain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator 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 Zoning Administrator in the enforcement or administration of this chapter.

157.05 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.

157.06 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 provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

157.07 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.

157.08 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 Flood Plain (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.

157.09 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The flood plain areas within the jurisdiction of this chapter are hereby divided into the following districts:

1. Floodway District (FW)
2. Floodway Fringe District (FF)
3. General Flood Plain District (FP)
4. Shallow Flooding District (SF).

The boundaries are as shown on the Official Flood Plain Zoning Map. Within these districts all uses not allowed as permitted uses or permissible as conditional uses are prohibited unless a variance to the terms of this chapter is granted after due consideration by the Board of Adjustment.

157.10 FLOODWAY (OVERLAY) DISTRICT - FW.

1. Permitted Uses. The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of material or equipment, excavation or alteration of a watercourse.
 - A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - B. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
 - C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - D. Residential uses such as lawns, gardens, parking areas and play areas.
 - E. Such other open-space uses similar in nature to the above uses.
2. Conditional Uses. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment, excavation or alteration of a watercourse may be permitted only upon issuance of a conditional use permit by the Board of Adjustment as provided for in Section 157.19. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.
 - A. Uses or structures accessory to open-space uses.
 - B. Circuses, carnivals, and similar transient amusement enterprises.
 - C. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.
 - D. Extraction of sands, gravel, and other materials.

- E. Marinas, boat rentals, docks, piers, and wharves.
 - F. Utility transmission lines and underground pipelines.
 - G. Other uses similar in nature to uses described in subsection 1 and in this subsection which are consistent with the provisions of subsection 3 and the general spirit and purpose of this chapter.
3. Performance Standards. All Floodway District uses allowed as a permitted or conditional use shall meet the following standards:
- A. No use shall be permitted in the Floodway District that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - B. All uses within the Floodway District shall:
 - (1) Be consistent with the need to minimize flood damage.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.
 - C. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other facility or system.
 - D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
 - E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
 - F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
 - G. Watercourse alterations or relocations (channel changes and modifications) 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.
 - H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
 - I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

157.11 FLOODWAY FRINGE (OVERLAY) DISTRICT - FF. All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance

standards of the Floodway Fringe District. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

1. All structures shall:
 - A. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.
 - B. Use construction materials and utility equipment that are resistant to flood damage.
 - C. Use construction methods and practices that will minimize flood damage.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) 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 shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential Buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) 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 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 that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.

A. All 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 (1) foot above the 100-year flood level.

B. All 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.

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 100-year 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 100-year 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 that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent

movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 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 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 (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 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

B. Exemption from the 100-year 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 Section 157.11(5) of this chapter 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 Section 157.11(5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the stream bed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

157.12 GENERAL FLOOD PLAIN (OVERLAY) DISTRICT - FP.

1. Permitted Uses. The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse.

A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

B. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.

C. Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

D. Residential uses such as lawns, gardens, parking areas and play areas.

2. Conditional Uses. Any use which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the Board of Adjustment as provided for in Section 157.19. All such uses shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100-year flood level. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

3. Performance Standards.

A. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (Section 157.10).

B. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe (Overlay) District (Section 157.11).

157.13 SHALLOW FLOODING (OVERLAY) DISTRICT - SF. All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District. The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the Flood Insurance Rate Map (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.
2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the Flood Insurance Rate Map.

157.14 ADMINISTRATION. The Zoning Administrator shall administer and enforce this chapter and will herein be referred to as the Administrator. The duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State or local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of (i) the elevation (in relation to National Geodetic Vertical Datum) 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 and/or countries 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 Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
7. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
8. Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Council of potential conflicts.

157.15 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved or 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.

157.16 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information.

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 (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Indication of the use or occupancy for which the proposed work is intended.
4. Elevation of the 100-year flood.
5. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

157.17 ACTION ON PERMIT APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain 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.

157.18 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits issued 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, floodproofing or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

157.19 CONDITIONAL USES, APPEALS AND VARIANCES. The Board of Adjustment shall hear and decide (i) applications for conditional uses upon which the Board is authorized to pass under this chapter; (ii) appeals, and (iii) requests for variances to the provisions of this chapter; and shall take any other action which is required of the Board.

1. Conditional Uses. Requests for conditional uses shall be submitted to the Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the Board of Adjustment.
2. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is

taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variances. 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 not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. 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 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an appeal, an application for a conditional use or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an appeal, conditional use or variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm wholly or in part, or modify the

order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a conditional use or variance, the Board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in Section 157.21.

157.20 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES IS BASED. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the service provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternate locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. 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.
13. Such other factors which are relevant to the purpose of this chapter.

157.21 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:

1. Modification of waste disposal and water supply facilities.
2. Limitation on periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.

4. 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.

5. Floodproofing measures designed to be consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

157.22 APPEALS TO THE COURT. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment 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 thirty days after the filing of the decision in the office of the Board.

157.23 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of 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 (6) 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.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter.

2. Except as provided in subsection B above, any use which has been permitted as a conditional use or variance shall be considered a conforming use.

157.24 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.

(Ch. 157 - Ord. 199 – Mar. 10 Supp.)

CHAPTER 165

ZONING REGULATIONS

165.01	Title	.08 "C-1" General Commercial
165.02	Purpose and Goals	.09 "C-2" CBD - Central Business Dist.
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	.01 "A" Agricultural	165.07 Exceptions and Modifications
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	.06 "R-5" Planned Unit Development	165.12 Administration
	.07 "C-O" Commercial-Residential	165.13 Enforcement, Violation and Penalties

165.01 TITLE

165.01.01 Long Title. An Ordinance titled, "The Zoning Ordinance of the City of Van Meter, Iowa," to repeal all ordinances in conflict herewith; and establishing comprehensive zoning regulations for the City of Van Meter, Iowa, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of Chapter 414, of the Code of Iowa.

165.01.02 Short Title. This ORDINANCE shall be known and may be referred and cited as the "Van Meter Zoning Ordinance", to the same effect as if the full title were stated. The map, herein referred to and identified as "The Zoning District Map, Van Meter, Iowa" and attendant explanatory matter thereon is hereby adopted and made a part of this Ordinance.

165.02 PURPOSE AND GOALS

165.02.01 Purpose. The zoning regulations and boundaries herein set forth are made in accordance with a comprehensive plan for the general welfare of the community, for the purpose of promoting a wholesome, serviceable, and attractive municipality, to protect both urban and rural development of the community, to promote aesthetics and natural beauty in the landscape, to preserve and create a more favorable environment in which to rear children and develop permanent good citizenship; and to conserve the value and encourage the most appropriate use of land throughout the community.

165.02.02 Goals. The specific goals of this Ordinance shall be, through the application of its regulations and boundaries to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health, morals, and the general welfare; provide adequate light and air; prevent the overcrowding of land or buildings; avoid undue concentration of population.

165.03 INTERPRETATION AND DEFINITIONS

165.03.01 Interpretation. In their interpretation and application the provisions of this Ordinance shall be held to be the minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or ordinances, the provisions of this Ordinance shall control.

165.03.02 Definitions. For the purposes of this Ordinance, certain words, phrases, and terms used herein shall be defined and interpreted as follows:

1. All words used in the present tense include the future tense.
2. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise.
3. The word "shall" is mandatory and not directory.
4. The word "may" is permissive.
5. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
6. The words "used" or "occupied" shall be deemed also to include "designed, intended or arranged to be used or occupied".
7. The word "lot" includes the words "plot" or "parcel".

Accessory Use, Building or Structure: A building, use or structure subordinate to another building, use or structure on the same lot which is of a nature customarily incidental to the principal use, building or structure; and does not alter or change the character of the premises; and which is not used for human occupancy.

Adult, Entertainment Establishment: A retail or service establishment which is characterized by an emphasis on specialized sexual activity and/or specified anatomical areas, including, but not limited to:

1. Any book store, video store, or other establishment in which a substantial portion of its stock and trade is devoted to printed matter or visual representation of specified sexual activities or specified anatomical areas;
2. Any movie theater offering movies or other displays, or any establishments offering coin operated devices, which emphasize specified sexual activities or specified anatomical areas; Any cabaret, club, tavern, theater, or other establishment which offers any entertainment emphasizing specified sexual activities or specified anatomical areas, including but not limited to, topless and/or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment;

3. Any establishment offering massage or similar manipulation of the human body, unless such manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional licensed by the state. This definition does not include massages or similar manipulation offered at an athletic club, health club, school, gymnasium, spa, or similar establishments.

Alley: A public way, other than a street, twenty (20) feet or less in width providing a secondary means of access to abutting property.

Agriculture: The use of land and/or buildings for agricultural purposes, including farming, dairying, pasturage, and animal and poultry husbandry; and the necessary accessory uses for packing, treating, or storing the produce provided, the operation of such accessory uses shall be secondary to the normal agricultural activities.

Animal Hospital: Any building, or portion thereof, and attached fenced-in kennel area, designed or used for the care, observation, or treatment of domestic animals.

Automobile Repair: General repair, rebuilding, reconditioning of engines, motor vehicles, or trailers.

Automobile or Trailer Sales Area: Any area of land, building or structure, where two or more motor vehicles, in running condition; or trailers fully capable of attachment to a motor vehicle are stored for display and sale.

Automobile Wrecking Yard: Any area of land where two or more vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for wrecking or storing of such motor vehicles, or parts thereof.

Basement: A story having more than one-half (1/2) of its floor-to-ceiling height below grade level. A basement shall not be counted as a story for the purpose of height regulations.

Billboard: Any structure or portion thereof, situated on private property, used or intended for use for advertising purposes, or for public display of posters, painted signs, wall signs, or pictures which advertise a business, attraction, or manufacturing which is not carried on, in, or upon the premises upon which said illustration is located.

Board: The Board of Adjustment.

Boarding House: A building other than a hotel, and not open to transients, where, for compensation, meals and lodging are provided for three (3) or more persons.

Building: Any enclosed structure which is built for the support or shelter of human use activities, whether stationary or movable.

Building, Height of: The vertical distance from the average natural grade at the front of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

Building Line: A line parallel to the front lot line over which no portion of the building may extend, and which is a distance from the front lot line equal to the depth of the front yard required for the district in which such lot is located.

Building, Main or Principal: A building in which is conducted the main or principal use of the lot on which said building is situated. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

Bulk Stations: Buildings, structures, and tanks used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

Business: The purchase, sale, barter, or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or amusement and recreational enterprises for profit.

Carport: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. A carport attached to the principal building shall be considered as part of the principal building, and subject to all yard requirements therein.

Clinic, Medical or Dental: A building, or buildings in which a group of physicians and/or dentists, and their professional assistants are associated for the purpose of carrying on their professions.

Club or Lodge, Private: A non-profit association of persons who are bona-fide members paying dues; which owns, leases, or hires land, a building or portion thereof, the use of such premises being restricted to members and their guests.

Commission: Van Meter, Iowa, Planning and Zoning Commission.

Condominium: A multiple dwelling consisting of at least three (3) units with a fee title to each dwelling unit which is held independently of the others and each unit having its own separate utilities and the remainder of the real estate is designed for common ownership solely by the owners of the separate dwelling units.

Council: Van Meter, Iowa, City Council.

Court: An open, unobstructed and unoccupied space other than a yard which is bounded on two or more sides by a building on the same lot.

Family: Curb Level, Grade: The average elevation, where curb and gutter exists, of the highest point of the curb along the front line of the lot. Where no curbing exists, it is to be taken as the average elevation of the center-line of the paving along the front of the lot.

Dwelling: A building or portion thereof, used primarily as a place of abode for one or more human beings, but not including a tent, trailer, or mobile home, or hotels, motels, boarding houses, and tourist homes.

Dwelling, Single Family: A building designed or used exclusively for occupancy by one family.

Dwelling, Two Family: A building designed or used exclusively for occupancy by two families.

Dwelling: A building, or portion thereof, containing three or more dwelling units.

Dwelling Unit: A dwelling or a portion thereof, used for one family for living, and sleeping purposes, containing bathroom and cooking facilities. One or more persons occupy a single housekeeping unit and using common cooking facilities. Unless related by blood or marriage, no such family shall contain over three (3) persons. Every additional group of three(3) or less persons not related by blood or marriage living in said housekeeping unit shall be considered a separate family for the purpose of this ordinance.

Flood Plain: That continuous area, adjacent to a stream bed or other natural drainage channels or areas, that is low-lying and subject to periodic inundation by water.

Floor Area of Building: The sum of the gross horizontal areas of the several floors of a building and its accessory buildings on the same lot; except that in residential buildings, basement, and attic floor area not devoted to active use shall be excluded, but the area of roofed porches and roofed terraces shall be included. All dimensions shall be measured between exterior faces of walls.

Garage, Private: Any building or structure enclosed on more than two sides intended and used for the parking of the private motor vehicle(s) of the families resident upon the premises.

Garage, Public: Any building where automotive vehicles are painted, repaired, rebuilt, reconstructed and/or stored for compensation.

Home Occupation: Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no commodity sold upon the premises except those produced thereon. In no event shall a barber shop, salon, gift shop, or animal hospital be construed as a Home Occupation unless the individual has applied for and received a special use permit pursuant to Article VII, § 7A-7 for a special use permit to operate a barbershop or salon. Commodities incidental to the practice of cosmetology or barbering may be sold in the event a special use permit is granted.

Hotel: A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to boarding or lodging houses.

Junk Yard: An open area or fenced-in enclosure where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled; including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles? but not including areas where such uses are conducted entirely within a completely enclosed building, or the processing of used, discarded or salvaged materials are part of a manufacturing operation.

Kennel: Any premises on which four (4) or more dogs, six (6) months or older, are kept for board, breeding or sale.

Land Use Plan: The comprehensive long-range plan for the desirable use of land within the community, as officially adopted and as amended from time to time by the Van Meter City Council; the purpose of the plan being, among other things, to serve as a guide to the zoning and

progressive changes in zoning of land to meet changing needs, in the subdividing and use of undeveloped land and in the acquisition of land for such public purposes as streets, parks, schools, and other public buildings and uses.

Lot: A parcel of land, abutting on a street, whose area, in addition to the parts thereof occupied or hereafter to be occupied by a building, structure, and/or accessory buildings, is sufficient to provide the yards required by the regulations herein given.

Lot, Corner: lot abutting upon two or more streets at their intersection.

Lot Double-Frontage: A lot having a frontage on two or more non-intersecting streets, as distinguished from a corner lot.

Lot Interior: A lot other than a corner lot.

Lot Area: The horizontal area within the lot lines of the lot.

Lot Lines: The lines bounding a lot.

Lot of Record: A lot which is part of a subdivision recorded in the office of the county recorder, or a lot or parcel described by metes and bounds, the legal description of which has been duly recorded.

Lot Depth: The mean horizontal distance between the front and rear lot lines.

Lot Width: The width of a lot measured at the building line and at right angles at its depth.

Mobile Home: Any vehicle used or maintained for use as a conveyance upon highways or public streets or waterways; so designed and 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.

Mobile Home Park: Any lot or portion of a lot upon which two (2) or more mobile homes occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodation.

Non-Conforming Use: A building, structure, or premises lawfully occupied or under construction at the time of the enactment of the zoning regulations for the district in which it is located; also such use resulting from changes in zoning districts or in textual provisions made hereafter.

Nursing or Convalescent Home: A building or structure having accommodations and where care and room and board is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, not including insane or other mental cases, inebriate or contagious cases.

Parking Area Public: An open area, other than a street or alley designed for use or used for the temporary parking of four (4) or more motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients, or customers, paved with a dust preventative or hard surface.

Parking Space: A permanently surfaced area of not less than two hundred (200) square feet either within a structure or in the open, inclusive of driveway or access drives, for the parking of a motor vehicle.

Primary Building Face: The side or sides of the building fronting on a street right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

Plat: A map or chart indicating the subdivision or re-subdivision of land, intended to be duly filed for record.

Row Dwelling: Any or one of at least three (3) but no more than six (6) or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls and each unit having its own separate utilities. Also referred to as a "townhouse."

Satellite Receiving Antenna: An accessory structure often called a "dish" or "earth station antenna" the purpose of which is to receive communication including but not limited to radio and television or other signals from satellite and other extra-terrestrial sources whether affixed to the ground as a permanent structure, to the building, or a mobile unit such as a trailer or vehicle.

Sign: Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. Any non-illuminated or illuminated sign with non-moving, non-flashing, and non-rotating light conforming to the applicable standards set forth in the categories below is exempt from the general sign requirements of each zoning district. However, such sign must meet all other requirements described for its category:

1. Directional/informational sign. Up to four (4) free-standing on-premise signs per non-residential lot with a maximum height of three (3) feet and a total maximum sign area per lot not to exceed thirty-two (32) square feet. One (1) off-premises sign for an institutional use may be allowed by special permit from the zoning administrator.
2. Flags. Any official governmental flag, or flag displaying the recognized symbol of a non-profit organization.
3. Historical marker. A marker, monument, plaque, or other type sign or notice located on public or private property which identifies documents or records an historical event pertaining to the structure on which it is located. One (1) sign per building no larger than twelve (12) square feet is permitted.
4. Incidental sign. A sign pertaining to specific products services, or facilities available on the premise. A maximum of five (5) signs per non-residential lot with a total maximum of thirty-two (32) square feet.
5. Institutional sign. An on-premise sign pertaining to a medical, charitable, religious, educational or civic institution with a maximum size of forty (40) square feet.

Specified Anatomical Areas:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

Story: That portion of a building between the surface of any floor and the surface of the floor next above it, or if there is no floor above it the space between such floor and the ceiling next above it.

Street: A public or private thoroughfare, being a right-of-way of a required width, which affords a primary means of access to abutting property.

Structure: Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, including satellite receiving antenna

Structural Alteration: Any change in the supporting members of a building including but not limited to bearing walls, load bearing partitions, columns, beams, or girders, or any substantial change in the exterior walls or roof, beyond ordinary repairs and maintenance.

Yard: An open space on the same lot with a building or structure open, unoccupied and unobstructed by structures, except as otherwise provided in this Ordinance.

Yard, Front: An open space extending across the full width of the lot and lying between the front lot line and the nearest ling of the principal building, other than the usual projection of steps.

Yard, Rear: An open space extending across the full width of the lot and lying between the rear lot line and the nearest line of the principal building, other than the usual projection of steps.

Yard, Side: An open space extending from the front yard to the rear yard between a building and the side lot line.

165.04 GENERAL REGULATIONS

165.04.01 Conformance. The regulations herein set forth shall be minimum regulations, applying uniformly to each class or kind of structure or land.

- A. No land, building or structure shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, or structurally altered which does not conform to the regulations of the district in which it is located.

- B. No building or structure shall hereafter be erected or altered:
1. to exceed the height;
 2. to accommodate or house a greater number of families or persons;
 3. to occupy a greater percentage of lot area; to have less than minimum, in area or dimension, front yards, side yards, rear yards, or other open spaces;
 4. or in any manner contrary to the provisions of this Ordinance
- C. No yard or lot existing at the time of passage of this Ordinance shall be changed in dimension or area to the extent that it no longer meets the requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements set forth herein.
- D. Modular homes, manufactured homes and mobile homes converted to real property and taxed as real estate, when placed on private property, shall have permanent frost depth footings of a perimeter foundation type or columns/piers and permanently anchored to prevent wind uplift and turnover, as specified in the Building Codes. The vertical space between the perimeter of the first floor and grade level shall be infilled with like material as utilized in site built construction with permanent frost depth footings and foundations.
- E. A residence shall contain at least one (1) entry on the street from which the property's address is determined. Such entry is not required to be the primary entry.

165.04.02 Non-conformance. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land structures, or buildings exist that are made no longer permissible under the terms of this Ordinance as enacted or amended, such use, structure, or building may continue so long as it remains otherwise lawful, subject Co the following provisions:

- A. No such non-conforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance; nor may any building or structure be enlarged or altered in a way which increases or substitutes its nonconformity.
- B. No such non-conforming use, structure or building shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. If any such non-conforming use of land ceases for any reason for a period

of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

- D. No such non-conforming structure, if destroyed by an act of God to an extent of more than eighty-five (85) percent of its replacement cost at time of destruction, shall be reconstructed except in conformity with the provisions of this Ordinance.
- E. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
- F. Any building or structure devoted to a non-conforming use with a fair market value of less than five (500) dollars, as determined by the Board of Adjustment, may be continued to a period not to exceed three years after the enactment of the regulations, whereupon such non-conforming use shall cease and thereafter such building or structure shall be removed or changed to a conforming use.

Nothing in this Ordinance shall be deemed to prevent the strengthening or 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.

165.04.03 Street Frontage. No lot shall contain any building used in whole or part for residence purposes unless such lot abuts on at least one (1) street for at least the minimum width at the minimum front yard depth from the street.

165.04.04 Accessory Buildings. No accessory building structure or garage that exceeds six (6) feet in height shall be erected, except as provided hereinafter:

1. Accessory buildings, including roof overhangs, shall be at least three (3) feet from lot lines of adjoining lots in any "R" District. An accessory building within sixty (60) feet of the front yard line shall have a full side yard between it and the side lot line. On a corner lot the accessory building shall conform with the setback regulations of the principal building.
2. Accessory buildings may be erected as part of the principal building or may be connected thereto by a breezeway or similar structure. Such connected accessory buildings shall be considered as part of the principal building for all yard requirements.
3. Accessory buildings shall be at least five (5) feet from any other separate building or structure on the same lot.
4. Any accessory building, including a garage, located in any "R" District shall comply with the applicable front yard setback for the principal building.

5. Accessory buildings and structures which are constructed above the normal ground surface in any required yard area shall not occupy more than thirty (30) percent of the yard area in which it is located; however, this regulation shall not be interpreted to prohibit the construction of a garage not to exceed six hundred twenty-five (625) square feet of gross building area.
6. A garage accessory building in any "R" District shall not exceed twenty (20) feet in height to the highest measured point of the garage accessory building. All other accessory buildings in a residential use in any "R" District shall not exceed twelve (12) feet in height to the highest measured point of the accessory building, and no accessory building shall exceed the highest measured point of the main residential building or dwelling. Materials used for the roofing and siding of the accessory building must be the same material as that used for the main residential building or dwelling. If the siding of the main residential building or dwelling is brick, stucco, or a materials not available, not longer produced, the accessory building siding may be hard wood panel, lap siding, or simulated vinyl or steel lap siding with the same, blending or matching color to the main residential building or dwelling.

165.04.05 Corner Lots. For corner lots, platted or of record after the effective date of this Ordinance, the front yard regulation shall apply to both yards abutting a street right-of-way.

The side yard setback on a reversed corner lot shall not be less than the front yard setback of the interior lot to the rear of said reversed corner lot.

165.04.06 Building Lines On Approved Plats. Whenever the plat of a land subdivision approved by the Planning Commission and on record in the office of the County Recorder shows a setback building line along the frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place or any other yard line required in this Ordinance unless specific yard requirements in this Ordinance require a greater setback.

165.04.07 Division of Property by District Boundaries. When one (1) parcel of property is divided into two (2) or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the others in respective zoning classification, and for the purpose of applying the regulations of this Ordinance; each portion shall be considered as if in separate and different ownership.

165.04.08 Number of Uses on One Lot. No lot shall contain more than one (1) principal use.

165.04.09 Conversion of Dwelling. The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be only within a district in which a new building for similar occupancy would be permitted under the zoning regulations, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces and off-street parking.

165.04.10 Minimum Floor Area. Excluding porches, garages, steps, or exterior walls; no dwelling shall contain less in square feet floor area than provided by the following schedules;

- A. Single family detached structures (floor area on ground level):

Number of Floors	Square Feet
1	800
2 or more	600

- B. All other dwelling structures (square feet excluding all common areas and common walls):

Number of Bedrooms	Square Feet
0	420
1	520
2	600
3	730
4	870

165.04.11 Essential Services. Essential services, including but not limited to telephone or other communications, electric power, gas, water, and sewer lines or facilities, including attendant poles, tower, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other distributing equipment, shall be permitted as authorized and regulated by law and other regulations of the municipality, it being the intent hereof to exempt such essential services from the application of the regulations.

165.04.12 ARCHITECTURAL DESIGN AND TREATMENT OF BUILDINGS.

In order to maintain character, continuity and enhance physical appearance, the following standards shall apply to zoning districts C-0 (non-residential uses), C-1, C-2, I-1 and I-2 unless noted otherwise in this Article or Article 6. In the event that any of the standards below conflict with other standards, regulations or requirements of Federal, State, County laws or regulations, or as outlined elsewhere within this City Code, the more restrictive regulation shall apply.

- A. Facades. All principal and accessory buildings must be constructed so that the Primary Building Face has as its covering natural materials, rather than simulated or synthetic materials. Natural materials include, but are not limited to, stone, stone facing, brick, wood, stucco, clay tile, ceramic tile, quarry tile, terra cotta, and cut stone. Rough-faced concrete block may be used for an exterior surface where concrete block is the only option because of existing structural conditions or requirements. Materials to be excluded include, but are not limited to, plain concrete block, plain precast, fiberglass, simulated brick and stone, vinyl siding, metal siding and masonite panels. If the underlying building is constructed using either metal or concrete form

walls, the metal or concrete portion of the external Primary Building Face must be completely covered with natural materials.

- B. Exclusions. This ordinance excludes that portion of the Primary Building Face that contains manufactured window frames, window glass, door frames and doors.
- C. Awnings. Awnings are allowed on any building consistent with other city codes and requirements. Any awning extending over a public sidewalk or passageway shall require a building permit with a condition of issuance being the Zoning Administrator's determination that the proposed awning complies with the appropriate snow loading standard determined to be appropriate by said administrator.
- D. Waiver of Requirements. Any one or more of the requirements set forth in 4A-12 may be waived by the Planning and Zoning Commission for reasons of safety or engineering, as the Commission may determine. No waiver shall be authorized or permitted for relief from any of the requirements of 4A-12 for reasons related primarily to the costs of compliance or aesthetic preferences. Any person seeking a waiver under this Section shall submit a written application to the Planning and Zoning Commission which shall include a detailed description of the safety or engineering need for a waiver.
- E. The provisions of this section shall be applicable to all buildings located in a BP-1 district, except the building façade materials may include architectural steel with hidden fasteners on the rear and sides of any building, provided the building side is located more than 300 feet from any current or proposed street, or current or proposed residential zoning district.

165.04.13 VISIBILITY AT INTERSECTION 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 (2-1/2) and ten (10) feet above the centerline grades of the intersection streets in the area bounded by the street lines forty (40) feet from the point of intersection.

165.05 ESTABLISHMENT OF DISTRICTS AND BOUNDARIES.

165.05.01 Districts. For the purpose of this Ordinance, the City is hereby divided into nine (10) types of districts:

- "A" Agricultural
- "C-0" Commercial-Residential
- "C-1" General Commercial
- "C-2" CBD Commercial
- "CF" Community Facility District
- "I-1" Light Industrial
- "I-2" Heavy Industrial
- "R-1" Single Family
- "R-2" Two Family

"R-3" Multiple Family
"R-4" (Reserved)
"R-5" Planned Unit Development District.

165.05.02 Boundaries. The boundaries of said districts are indicated upon the Official Zoning Map of the City of Van Meter, Iowa, and said map and all notations, references, and other information shown thereon, shall be as much a part of this Ordinance as if the notations, references and other matters set forth by said map were all fully described herein.

In cases where the exact location of a district boundary is not clear as shown on the Official Zoning Map, the following rules shall be used in determining the location of said district boundary:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, alleys, or other public right-of-ways shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following such limit lines.
- D. Boundaries indicated as following shore or bank lines of a river or body of water, shall be construed to follow such lines, and in the event of change in the shore line shall be construed as moving with the actual shore or bank line; boundaries indicated as following the center line of streams, rivers, canals, or other bodies of water shall be construed to follow such center lines.
- E. Boundaries that are indicated approximately as dividing a parcel or lot of property shall be determined by the use of the scale appearing on the map.
- E. Boundaries indicated as following railroad lines shall be construed to follow the right-of-way line on that side bordering against the more restrictive use.
- F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries.

165.06 DISTRICT REGULATIONS.

165.06.01 "A" Agricultural District

- A. Intent. The agricultural district is intended and designed to preserve agricultural land from encroachment of urban land uses. Its further purposes are:

1. Facilitating adequate police, fire and sanitary protection for residential uses.
 2. Discouraging the scattering of commercial, or industrial uses into outlying areas, resulting in excessive requirements and costs for public services.
- B. Principal Permitted Uses.
1. Public parks, playgrounds and recreation areas.
 2. Publicly-operated golf clubs, swimming pools, country clubs or other similar recreation uses provided that any principal or accessory building in connection therewith shall be located not less than two hundred (200) feet from any lot in an "R" District.
 3. Public schools and educational facilities.
 4. C e m e t e r i e s .
 5. Farming, dairying, poultry husbandry and other allied agricultural operations.
 6. Nursery and greenhouse, and buildings and structures necessary for the sale of their products, provided said buildings are located not *less* than twenty (20) feet from any lot line.
 7. Non-farm, single family detached dwellings.
 8. Farm dwellings, with all accessory buildings necessary to continue farming operation, provided that no building or confined feed lot, etc., other than a dwelling is located closer than two hundred (200) feet to any "R" District.
- C Accessory Uses.
1. Essential service facilities, including but not limited to poles, towers, pipes, vaults, and valves.
 2. Picnic shelters, playground equipment, storage sheds, clubhouses, bath houses which shall not be used as dwellings.
 3. Buildings, structures, and uses accessory to agricultural uses such as roadside stands, selling produce grown on the premises, provided such roadside stands are located not less than twenty (20) feet from a street or highway right-of-way line.

4. Private garages or parking areas.
 5. Signs accessory to roadside stands shall be limited to two signs per lot with no sign being larger than ten (10) square feet in area and set back ten (10) feet from the right-of-way of a street or highway.
- D. Area Regulations.
1. Lot Area. The minimum lot area shall be five (5) acres.
 2. Lot Width. The minimum lot width shall be one hundred fifty (150) feet.
 3. Yard Widths:
 - a. The minimum front yard shall be fifty (50) feet.
 - b. The minimum rear yard shall be fifty (50) feet.
 - c. The minimum side yard being fifty (50) feet; minimum on one side being twenty-five (25) feet; for residential and fifty (50) feet on each side for other uses.
 4. Building Height. The maximum building height shall be two and one-half (2-1/2) stories, with a maximum height of thirty-five (35) feet

165.06.12 “BP-1” Business Park District

- A. Intent. The Business Park District is intended for the conduct of business that is appropriately located within a large identified business area and for business that is generally in the service sector or intellectual property sector and does not require frequent access by the public. The regulations set forth in this section are meant to achieve the following:
1. To provide appropriate space for strengthening the economic base of the community.
 2. To locate non-retail businesses not requiring direct public access in areas where suitable utilities and other resources are available.
 3. To provide an area within the community where businesses desiring a large business park setting can develop without conflicting residential or commercial uses.
- B. Permitted Uses. The permitted uses within the District encompass a wide range of non-retail and non-manufacturing commercial enterprises with said uses focusing on the service sector including businesses providing services associated with data and intellectual property. Permitted uses shall include the following and businesses of a similar nature:
1. Data processing centers.
 2. Transaction processing centers.

3. Services sector office buildings.
 4. Banking support services.
 5. Non-retail support for retail business or service businesses.
 6. Professional office buildings.
- C. Accessory Uses.
1. On-site wells used for backup water supply.
 2. Standby power generators used for emergency power, provided such generators are equipped with appropriate sound dampening enclosures and mufflers.
 3. Wind generators at a density of no more than 1 for every 3 acres provided no wind generator can be located within 200 feet of the exterior boundary of a parcel except no wind generated can be located within 300 feet of a residential zoning district. The height of the mounting pole for a wind generator may not exceed 120 feet, except with approval by the City Council.
 4. Fuel storage for standby generators.
 5. Electric substations used to support business operations.
 6. Exterior building security measures.
 7. On-site exterior signs which shall be integral or attached to the building and shall not extend above any building line, shall not have a height of more than 8 feet or length of more than 35 feet, or ground monument signs not exceeding 6 feet in height or 15 feet in length.
- D. Area Regulations.
1. Lot area. The minimum area shall be 10 acres.
 2. Lot width. There shall be no minimum required lot width, except no lot may have a width less than 25% of its longest dimension.
 3. Yard width.
 - a. The minimum front yard depth shall be 50 feet.
 - b. The minimum rear yard depth shall be 50 feet.
 - c. The minimum side yard depth shall be 25 feet on all sides other than the front and rear.

165.06.02 "R-1" Single Family Residence District

- A. Single family residential district is established as a district in which the principal use of land is for single family dwellings, to which purpose the specific intent of this section is:

1. To encourage the continued construction and use of the area for single family dwellings.
 2. To prohibit commercial and industrial use of the land, and of any other use which would inhibit single family development of, the area.
 3. To discourage any use which would generate heavier than normal traffic on minor residential streets.
- B. Principal Permitted Uses.
1. Single family dwellings.
 2. Churches, temples and accessory buildings.
 3. Public libraries, museums, or similar community facilities.
 4. Public parks, playgrounds, golf course and recreation areas, provided that no such use be operated primarily for gain.
 5. Public and private schools.
- C. Accessory Uses.
1. Private garage or carport.
 2. Temporary buildings erected during the construction of a permitted use.
 3. One sign not exceeding ten (10) square feet in area referring to the construction, lease, hire or sale of a building, premises or subdivision lots, which sign shall refer to the property on which it is located, and shall be removed as soon as the premises area sold, leased or construction completed.
 4. Church and school bulletin boards, not to exceed forty (40) square feet in area. Such bulletin boards shall be non-illuminated or indirectly lighted with non-moving, non-flashing, non-rotating white light.
 5. One sign, non-illuminated, appurtenant to a home occupation or permitted use, not exceeding six (6) square feet on any one side thereof and not more than two sides of such sign shall be used for advertising purposes; the bottom of the surface area of such sign shall not be more than forty-two (42) inches above the ground surface upon which is erect.
 6. Professional office of a member of a recognized profession, provided that; it is his primary residence, not more than one (1) assistant shall be regularly employed therein, and no colleagues or

associates shall use such office; not more than one-half (1/2) the area of one (1) floor shall be used for such office.

D. Area Regulations:

1. Lot Area. The minimum lot area shall be ten thousand (10,000) square feet. Where public sewer and water facilities are not available, the minimum area shall be twenty thousand (20,000) square feet.
2. Lot Width. The minimum lot width shall be eighty (80) feet.
3. Yard Width. The minimum yard widths shall be as follows:

Use	Front Rear		Side Yard (feet)
	Yard (feet)	Yard (feet)	
Single Family Dwelling	35	35	10% of overall lot width for each side; \ 8 minimum
Single Family Dwelling in single subdivision of more than 150 lots with approval of City Council	30	25	7 per side; minimum 15 total
Other Buildings	35	45	10% of overall lot width for each side; 8 minimum

4. Building Height. The maximum building height shall be two and one-half (2-1/2) stories, with a principal building height maximum of thirty-five (35) feet. Accessory buildings shall be a maximum twelve (12) feet in height.
5. Minimum Single Family Dwelling Dimensions.: Neither the minimum overall width dimensions nor the overall depth dimension of a single family dwelling shall be less than twenty (20) feet.

165.06.03 "R-2" Two Family Residence District

A. The one and two family residence district *is* established as one designed to provide for a medium density residential development. The specific intent of this section is:

1. To encourage construction and use of the area for single and two family dwellings.
2. To provide for medium density housing and the attendant rise in traffic on specific collector streets.
3. To prohibit commercial and industrial use of the land, and of any other use which would inhibit residential orientation of the area.

B. Principal Permitted Uses.

1. Any and all uses permitted under the "R-1" classification.
2. Single family dwellings.
3. Two family dwellings.
4. Conversion of one family dwellings into two (2) dwellings in accordance with all lot area, frontage and yard requirements set forth in this section.

C. Accessory Uses.

1. Accessory uses permitted under the "R-1" classification.
2. Customary home occupations, conducted entirely and solely by resident occupants in their place of abode; and provided that not more than one-half (1/2) of the area of one (1) floor be utilized for such purpose; further providing that said occupations require no external or internal structural alterations, or the use of mechanical equipment not customarily used in dwellings. Customary home occupations to be determined by Board of Adjustment.
3. Nursery schools, or child nurseries provided that the building be located not less than twenty (20) feet from any other lot in any "R" district classification; provided that thirty (30) square feet of usable interior floor space and one hundred (100) square feet of usable outdoor play space is provided for each child. The outdoor play space must be completely enclosed by a fence not less than four (4) feet, nor more than six (6) feet in height.

D. Area Regulations.

1. Lot Area. The minimum lot area shall be eight thousand four hundred (8,400) square feet for single family dwellings and twelve thousand five hundred (12,500) square feet for a two family dwelling.
2. Lot Width. The minimum lot width shall be sixty-six feet (66) for single family dwellings and ninety feet (90) for two family dwellings.
3. Yard Width. The minimum front yard shall be thirty-five (35) feet, the minimum rear yard shall be thirty (30) feet for a dwelling and forty-five (45) feet for any other building. For two family dwellings the total side yard requirement shall be not less than twenty (20) feet, with the least side minimum being eight (8) feet. For all other buildings other than two family dwellings, lots eighty (80) feet or more for each side yard, and lots greater than eighty (80) feet wide shall have a side yard equal to or greater than ten (10) percent of the overall lot width, for each side yard.
4. Building Height. The maximum building height shall be two and one-half (2-1/2) stories, with the principal building height maximum of thirty-five (35) feet. Accessory building height maximum shall be twelve (12) feet.
5. Minimum Dwelling Dimensions. Neither the minimum overall width dimension nor the overall depth dimension of a single family dwelling shall be less than twenty (20) feet.

165.06.04 "R-3" Multiple Family Residence District

A. The multiple family residence district is intended to be basically residential in character, designed to:

1. Stabilize and protect the essential characteristics of the district.
2. Promote a suitable environment for family life.
3. Permit certain commercial uses of a character unlikely to develop general concentration of traffic.

B. Permitted Uses.

1. Any and all uses permitted under the "R-2" classification.
2. Multi-family dwellings including row dwellings consisting of at least three (3) not more than six (6) dwelling units in an attached, continuous row, and condominium dwellings consisting of at least

three (3) but not more than twelve (12) dwelling units in one building or attached structure. Further, for row dwelling units (RDU) and condominium dwelling units (CDU) to qualify as a permitted use under the terms and provisions of this classification, each dwelling unit shall have separate facilities for gas, electricity, sewerage and water.

3. Private clubs, lodges, or veterans organizations, excepting those holding beer permits or liquor licenses.
4. Boarding houses
5. Hospitals, clinics, nursing and convalescent homes, excepting animal hospitals and clinics.
6. Office of a doctor, dentist, osteopath, chiropractor, optometrist or similar profession.
7. Professional offices including but not limited to the following: law, engineering, architecture, accounting, bookkeeping, and similar uses.

C Accessory Uses.

1. Accessory uses permitted under the "R-2" classification.
2. Storage garages, where the lot is occupied by a multi family dwelling.
3. Beauty parlor and barber shop when conducted as a home occupation solely by resident occupants in their place of abode and provided that not more than one quarter (1/4) of the area of one (1) floor shall be used for that purpose. An indirectly lighted sign of not over one (1) square foot in area and attached flat against the building shall be permitted.
4. One sign not exceeding thirty-two (32) square feet in area which identifies and describes the property on which it is located. Moving, flashing, or rotating illuminated signs shall not be permitted.

D. Area Regulations.

1 Lot Area. The minimum lot area shall be as follows:

<u>Use</u>	<u>Minimum Lot Area</u>
Single Family Dwelling	8,400 square feet
Two Family	10,000 square feet, plus 2,500

Dwelling	square feet in excess of the 10,000 square foot minimum for each dwelling unit in excess of two dwelling units
Row Dwelling Condominium	15,000 square feet 20,000 square feet
Bi-Attached Townhome	5,000 square feet for each townhome lot

2. Lot Width. The minimum lot width shall be as follows:

<u>Use</u>	<u>Minimum Lot Width</u>
Single Family Dwelling	75 feet
Two Family Dwelling	90 feet
Row Dwelling Condominium	20 feet per unit 75 feet
Bi-Attached Townhome	40 feet per unit
All Other Buildings	100 feet

3. Yard Width. The minimum yard widths shall be as follows

Use	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)
Row Dwellings and Condominiums	30	30	10 each side
Bi-Attached Townhome	30	25	0; 15 building separation required
Single Family Dwelling	35	30	10 each side
Single Family Dwellings in single subdivision of more than 150 lots with approval of City Council	30	25	7 per side; minimum 15 total
All Other Uses	35	30	10 each side

4. **Building Height.** The maximum building height shall be three (3) stories, with the principal building height maximum of thirty-five (35) feet.
5. **Emergency Access.:** There shall be at least a ten (10) foot width of unobstructed access to all sides of the structure from the nearest street in order to permit police, fire and ambulance emergency access.
6. **Minimum Dwelling - Dimensions:** Neither the minimum overall width dimension nor the overall depth dimension of a single family dwelling shall be less than twenty (20)feet.

165.06.05 RESERVED

165.06.06 "R-5" Planned Unit Development District

- A. **Intent.** The "R-5" District is intended and designed to provide a means for the development of large tracts of ground on a unit basis, allowing greater flexibility and diversification of land uses and building locations than the conventional single lot method provided in other sections of this ordinance. It is the intent of this section that the basic principles of good land use planning including an orderly and graded relationship between various types of uses be maintained and that the sound zoning standards as set forth, in this ordinance and statutes concerning population density, adequate light and air, recreation and open space, and building coverage be preserved.
- B. **Procedure.**
 1. The owner or owners of any tract of land comprising not less than ten (10) acres to permit construction of at least thirty-two (32) dwelling units, may submit to the City Council a petition requesting a change to the "R-5" zoning district classification. Each petition shall be accompanied by five (5) copies of a development plan, which shall consist of a complete set of drawings and specifications for the proposed use and development of the entire tract of land. The development plan shall be referred to the Plan and Zoning Commission for study and report after public hearing. The Plan Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of architectural design, land use planning and landscape architecture. The Commission may approve the plan as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the plan as the commission deems necessary to the end that it preserve the intent and purpose of this ordinance to promote public health, safety, morals, and general welfare. The development plan as approved by the Commission shall then be reported to the City Council, whereupon the City Council may approve or disapprove said plan as reported or may require such

changes thereto as it deems necessary to effectuate the intent and purpose of this ordinance.

2. If the Council approves the preliminary plan and request for rezoning, the applicant shall submit within 270 days, or longer period as may be allowed by the Council, five (5) copies of a final development plan for the entire tract of land shall be submitted to the commission. The final development plan shall then be reviewed by the commission, for compliance with the "R-S" standards and substantial compliance with the preliminary plan. The commission's recommendations and report on the final development plan shall be referred to the Council for final approval. The Council shall review the final development plan and approve it if it complies with the standards of this section and is in substantial compliance with the preliminary development plan. The final development plan and final plat shall be approved by the Council and the final plat recorded with the County Auditor and Recorder before any building permit is issued.
 - 3 The Council may make the approval of the development plan contingent upon the completion of construction and improvements within a reasonable period of time; provided, however, that in the determination of such period, the Council shall consider the scope and magnitude of the development project and any schedule of construction and improvements submitted by the developer. Failure to complete all construction and improvements within said period of time shall be deemed sufficient cause for the Council to rezone the unimproved property to the classification effective at the time of original submission of the development plan, unless an extension as recommended by the Commission and approved by the Council for due cause shown. Any proposed change in the development plan after approval by the Council shall be resubmitted and considered in the same manner as the original proposal. The term "unimproved" property shall mean all property situated within a stage or stages of the final development plan upon which the installation of improvements has not been commenced.
- C. Plan Requirements. The development plan shall include, but is not limited to, the following required items:

If the proposed development includes common land which will not be dedicated to the city, and the proposed development will not be held in single ownership, proposed by-laws of a homeowner's association fully defining the functions, responsibilities and operating procedures of the association. The proposed by-laws shall include but not be limited to provisions:

- a. Requiring membership in the association by all owners of dwelling units within the development;

- b. Limiting the uses of the common property to those permitted by the final development;
 - c. Granting to each owner of a dwelling unit within the development the right to the use and enjoyment of the common property;
 - d. Placing the responsibility for operation and maintenance of the common property in the association;
 - e. Giving every owner of a dwelling unit voting rights in the association, and
 - f. If the development will combine rental and for sale dwelling units, stating the relationship between the renters and the homeowner's associations and the rights renters shall have to the use of the common land.
2. Performance bond or bonds which shall insure to the City that the dedicated public streets, utilities, and other common development facilities shall be completed by the developer within the time specified in the final development plan.
 3. Covenant to run with the land, in favor of the City and all persons having a proprietary interest in any portion of the development premises, that the owner of the land or successors in interest will maintain all interior streets, parking areas, sidewalks, common land, parks and plantings which have not been dedicated to the City in compliance with the City ordinances.
 4. Any additional agreements required by the Council at the time of preliminary plat approval.
 5. Height and exterior design of typical proposed dwellings and the number of dwelling units in each.
 6. A plat which shall show building lines; lots and/or blocks; common land, recreation areas, and parks, streets within or abutting the proposed development, existing and proposed easements; parking areas; walks, landscaping and planting areas; development stages and timing of each; and other applicable items required by the subdivision ordinance.
- D. Standards. The land usage, minimum lot area, yard, height, and accessory uses shall be determined by the requirements set forth below, which shall prevail over conflicting requirements of this ordinance or the subdivision ordinance.

- 1 Buildings shall be used only for residential purposes and the accessory uses as permitted by this section. Uses along project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end, the Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.

- 2 The following accessory uses shall be permitted:
 - a. Private garage or carport.
 - b. Occupant storage and similar accessory uses.
 - c. Non-commercial recreational facilities.
 - d. Community facilities including churches and schools.

- 3 Commercial uses, including business and professional offices, and retail convenience facilities designed to serve primarily occupants of the planned development may be permitted provided the following conditions are met:
 - a. The planned unit development shall provide for a total of at least three hundred (300) residential dwelling units, and at least one hundred fifty (150) of said units shall be completed and occupied before any commercial facilities shall be occupied.
 - b. Gross leasable floor area for commercial uses shall not exceed thirty thousand (30,000) square feet or 101; of the floor area of occupied dwelling units in the development, whichever is less. Provided further that gross leasable floor area intended for occupancy by each commercial and/or office establishment shall not exceed four thousand (4,000) square feet.

- 4 The minimum lot and yard requirements of the zoning districts in which the development is located shall not apply, except that minimum yards specified in the district shall be provided around the boundaries of the development. The Council may require open space or screening be located along all or a portion of the development boundaries. The height requirements of the zoning district in which the development is located shall apply within one hundred twenty-five (125) feet of the development boundary. The maximum height of any building located within the development shall be sixty (60) feet, and the maximum number of stories shall be three (3).

- 5 The maximum number of dwelling units permitted shall be determined by dividing the new development area by the minimum lot area per dwelling unit required by the zoning district or districts in which the area is located then multiplied by one hundred twenty (120) percent. (In the "R-2" District, the two-family dwelling requirement shall apply.) In any "C" District, "R-3" standards shall apply. New

development area shall be determined by subtracting the area set aside for churches, schools and/or commercial facilities, if any, and deducting the area actually proposed for streets from the gross development area. The area of land set aside for common land, open space, or recreation shall be included in determining the number of dwelling units permitted. The maximum number of multiple dwelling units permitted shall be determined by the zoning district in which the development is located as follows:

Zoning District Allowed	Percentage of Total Units As Multiples
R-1	25
R-2	50
R-3	100

If the development area contains two (2) or more different zoning classifications, the number of dwelling units permitted shall be determined in the direct proportion to the area of each zoning classification contained in the entire tract.

6. All public streets, water mains, sanitary sewer and storm sewer facilities shall comply with appropriate ordinances and specifications of the City.
7. Any land gained within the development because of the reduction in lot sizes, below minimum zoning ordinance requirements, shall be placed in common land. "Common land" as used in this section refers to land retained in private ownership for the use of the residents of the development, or to land dedicated to the general public. A minimum of two hundred fifty (250) square feet of usable open space shall be provided for each dwelling unit.
8. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Article VIII, and Section 8A2.
9. Signs on-site shall be subject to the provisions of the "C-1" classification.
10. No stage of a development shall contain less than thirty (30) dwelling units.
11. Developments or portions thereof which are being developed for sale or resale shall contain common land in area totaling not less than twenty-five (25) percent of the net development area.

165.06.07 "C-0" Commercial-Residential District**A. Intent.**

- 1 The commercial-residential district is intended to provide for the convenience shopping of persons living in neighboring residential areas and for general uses and activities of a retail and personal service character. Only those uses are permitted which are necessary to satisfy the local needs which occur so frequently as to require commercial facilities in proximity to residential areas. In addition, low-intensity business and professional offices are permitted.

B. Principal Permitted Uses.

- 1 Any and all uses permitted under the "R-3" Classification.
- 2 Retail business or service establishments such as the following:
 - a. Confectionery stores
 - b. Delicatessens
 - c. Drug stores
 - d. Convenience grocery stores
 - e. Variety stores
- 3 Combinations of the above uses.
- 4 Business and professional offices supplying commodities or performing services primarily for residents of the neighborhood.

C. Permitted Accessory Uses.

- 1 Any and all accessory uses permitted under the "R-3" Classification.
2. Storage of merchandise incidental to the principal use, but not to exceed forty (40) percent of the floor area used for such use.

3. On-site exterior signs, which shall be integral or attached to the building. No sign may project over any street line or extend more than six (6) feet over any building line, whether attached thereto or to any other structure. In no case shall any sign project more than four (4) feet above the roof line or eighteen (18) inches from the building wail and must be at least seven (7) feet above grade. The total area of all signs pertaining to the use of or business conducted in any building shall be no greater than fifteen (15) percent of the wall area on which they are located. If the sign is indirectly lighted/ it shall be illuminated by artificial light reflecting from the sign face and the light source shall not be visible from any street right-of-way. Moving, flashing, or rotating illuminated signs shall not be permitted. Where the lot adjoins an "R" district, the exterior sign shall be attached flat against the building and shall not face the side of the adjacent lot located in the "R" district; however, this does not apply to the side of the building which is opposite that side adjoining the "R" district.
4. All exterior signs shall be attached flat against the building.

D. Area Regulations.

1. Lot Area. The minimum lot area shall be the same as that in the "R-3" Classification for dwelling units. Mo minimum requirements for any other permitted uses.
2. Lot Width. For a dwelling and any building containing any dwelling units, the minimum requirement shall be the same as that under the "R-3" Classification. There is no minimum requirement for other permitted uses.
3. Yard Width.
 - a. The minimum front yard depth shall be twenty-five (25) feet, the minimum rear yard depth that the front yard is increased over the twenty-five (25) feet.
 - b. The rear yard may be decreased proportionately, except that where the rear yard adjoins the side lot line of a lot in an "R" District, there shall be a minimum rear yard of fifteen (15) feet adjacent to said lot line
 - c. The side yard required for residential uses shall be the same as that for the "R-3" classification. There shall be no minimum requirement for any other permitted uses, except when adjoining any "R-1", "R-2", "R-3" district, or street right-of-way, in which case the side yard requirement shall be fifteen (15) feet.

4. Building Height. The maximum height shall be two and one-half (2-1/2) stories, or thirty-five (35) feet.
5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Article VIII of this Ordinance.

165.06.08 "C-1" General Commercial District

A. Intent. The general commercial district is intended for the conduct of general business to which the public requires direct and frequent access. The regulations set forth in this section are meant to achieve the following purposes:

1. To protect commercial development against the establishment of uses which would create hazards, dust, odors, smoke or other objectionable influences or heavy trucking traffic.
2. To provide appropriate space for strengthening the economic base of the community.
3. To conserve the value of existing commercial buildings.
4. To encourage pedestrian movement in a developed downtown.

B. Permitted Uses.

1. Private clubs, lodges, or veterans' organizations.
2. Hospitals, clinics, nursing and convalescent homes.
3. Any retail business or service establishment, including but not limited to the following:
 - a. Animal hospitals, veterinary clinics, or kennels; provided any exercising runway shall be at least two hundred (200) feet from any "R" District.
 - b. Automobile, truck, trailer, motorcycle, bicycle, boat and farm implement, including sales, service, re accessory stores but not including wrecking, rebuilding or used parts yards.
 - c. Bank, savings and loan associations. Barber shop or beauty parlor.
 - d. Clothing, sporting goods store.

- e. Commercial recreation, such as swimming pool, skating rink, miniature golf course, trampoline center, and other similar recreational uses.
 - f. Drug store.
 - g. Florist shop.
 - h. Furniture, appliance store and repair. Grocery store or super market.
 - i. Hardware store, plumbing and heating.
 - j. Hotel, motel and motor hotel.
 - k. Jewelry Store.
 - l. Laundries and laundrettes.
 - m. Office building, business and professional, meeting halls.
 - n. Photographic studio, camera shop.
 - o. Printing shop.
 - p. Restaurant, drive-in restaurant.
 - q. Tavern and night club, provided that it is not within three hundred (300) feet of an "R" District; church, school or convalescent home.
 - r. Theatre.
- 4 Any and all uses permitted under "C-0" classification.

C Accessory Uses.

- 1. Any and all accessory uses permitted under the "R-3" Classification.
- 2. On-site exterior signs, which shall be integral or attached to the building. No sign may project over any street line or extend more than six (6) feet over any building line, whether attached thereto or to any other structure. In no case shall any sign project more than four (4) feet above the roof line or eighteen (18) inches from the building wall and must be at least seven (7) feet above grade. The total area of all signs pertaining to the use of or business conducted in any building shall be no greater than fifteen (15) percent of the wall area on which they are located. If the sign is indirectly lighted, it shall be illuminated by artificial light reflecting from the sign face and the light source shall not be visible from any street right-of-way. permitted, A sign can be internally lit. Illuminated signs shall not be moving, rotating , flashing or strobe. Message sign can display a message in a stop position for a minimum of 5 seconds and then display then next

message. The message can not rotate, flash, strobe or scroll; the message is on or off. Where the lot adjoins an "R" district, the exterior sign shall be attached flat against the building and shall not face the side of the adjacent lot located in the "R" district; however, this does not apply to the side of the building which is opposite that side adjoining the "R" district.

3. Sign, pole or free-standing or ground provided that not more than two sides of such sign shall be used for advertising purposes; the bottom of the surface area of such sign shall not be less than eight (8) feet above the ground surface upon which it is erected and shall not exceed twenty (20) feet in height. A sign, free-standing or ground (a sign which is supported by one or more uprights or braces in or upon the ground and not attached to any building or wall) shall not exceed thirty-two (32) square feet in area on each side and shall have a setback of fifteen (15) feet from the property line. A sign, pole (a sign wholly supported by a sign structure in the ground) shall not exceed fifty (50) square feet in sign area on each side. Moving, flashing, or rotating illuminated signs shall not be permitted.

D Area Regulations.

1. Lot Area. The minimum lot area shall be the same as that in the "R-3" classification for dwelling units; there is no minimum requirement for any other building.
2. Lot Width. For a dwelling and any building containing any dwelling units, the minimum requirement shall be the same as that under the "R-3" classification. There is no minimum required for other permitted uses.
3. Yard Width.
 - a. The minimum front yard depth shall be twenty-five (25) feet.
 - b. The minimum rear yard depth shall be thirty-five (35) feet.
 - c. For each one (1) foot that the front yard is increased over twenty-five (25) feet, the rear yard may be decreased proportionately, except that where the rear yard adjoins the side lot line of a lot in an "R" District, there shall be a minimum rear yard of ten (10) feet adjacent to said side lot line.
 - d. The side yard required for residential uses shall be the same as that for the "R-3" classification. There shall be no minimum requirement for any permitted uses, except when adjoining any "R-1", "R-2", "R3" District, or street right-of-way, in which case shall be fifteen (15) feet.

- 4 Building Height. The maximum height shall be three (3) stories, or forty-five (45) feet.

165.06.09 "C-2" CBD — Central Business District.

- A. Intent. The "C-2" district is intended to accommodate the variety of retail stores and related activities which occupy the prime area within the business district. No property shall be zoned "C-2" unless it lies adjacent to property zoned "C-2" Commercial.
- B. Principal Permitted Uses.
1. Any and all uses permitted under the "C-I" Commercial classifications.
- C. Accessory Uses.
1. Any and all accessory uses permitted under the "C-I" Commercial classification.
- D. Area Requirements.
1. Lot Area. No minimum.
2. Lot Width: No minimum.
3. Yard Width. No minimum, unless the side yard is adjacent to an "R" district, in which case the side yard shall be at least fifteen (15) feet.
4. Building Height. The maximum height shall be three (3) stories or forty-five (45) feet.

165.06.10 "C-3" Commercial District.

- A. Intent. The C-3 commercial district is intended for the conduct of general business.
- B. Principal Permitted Uses. Any and all uses permitted under the Commercial classifications except that no residential use may be used in C-3 even if otherwise allowed under C-0, C-I, or C-2.
- C. Accessory Uses. Any and all accessory uses permitted under the "C-2" Commercial classification.
- D. Area Requirements.
1. Lot Area. No minimum.
2. Lot Width. No minimum.

3. Yard Width. No minimum, unless the side yard is adjacent to an "R" district, in which case the side yard shall be at least fifteen (15) feet.
4. Building Height. The maximum height shall be three (3) stories or forty-five (45)feet.

165.06.11 "CF" Community Facility District

- A. Intent. The Community Facility District is intended to accommodate buildings used for general community based activities.
- B. Permitted Uses.
 1. Veterans organizations.
 2. Recreation and community meeting space within a common facility.
- C. Permitted Accessory Uses.
 1. Exterior signs located along access drive adjacent to street right-of-way shall be a monument type sign.
 2. All other exterior signs shall be attached against the building.
 3. Pole-mounted wind energy conversion system with a maximum density of one system for each five (5.0) acres, or fraction thereof.
- D. Area Regulations.
 1. Lot Area. The minimum lot area shall be four (4.0) acres.
 2. Lot Width. No minimum.
 3. Yard Width. No Minimum, unless a yard is adjacent to an "R" District in which case the side yard shall be at least twenty-five (25) feet; however, such minimum lot requirement shall not apply to any part of the property less than fifty (50) feet in width.
 4. Building Height. The maximum height shall be there (3) stories, or forty-five (45) feet.
 5. Off-street Parking. Spaces for off-street parking shall be provided based on the projected use and occupancy of the building. The provisions of Article VIII of this Ordinance shall not be applicable for the "CF" District.
 6. Wind Energy Conversion Systems. Maximum pole height: eighty (80) feet. Minimum distance from pole to property line: thirty (30) feet except minimum distance to a property line adjoining a residential zoning district: seventyOfive (75) feet.

165.06.12 "I-1" Light Industrial District.

A. Intent. The light industrial district is established as a district permitting only those commercial uses as specified in the Principal Permitted Uses under this section. It shall be the declared purpose of this classification to promote industrial enterprises and to discourage residential building and subdivisions in the light industrial zone. It is intended to provide for light manufacturing uses which are conducted primarily within an enclosed building, and of a non-nuisance character.

B. Principal Permitted Uses.

1 The following commercial uses:

- a. Adult entertainment.
- b. Automobile, truck, trailer, motorcycle, bicycle, boat and farm implement, including sales, service, repair and accessory stores but not including wrecking, rebuilding or used parts yards.
- c. Locker plant for storage and retail only.
- d. Lumber yard - retail only.
- e. Printing shop.
- f. Restaurant, drive-in restaurant.

2 Uses including, but not limited to:

- a. Automobile, tractor, and farm machinery assembly and repair.
- b. Concrete mixing, concrete products manufacture.
- c. Contractors' equipment or storage yard.
- d. Creamery, dairy, ice cream manufacture, or bottling works.
- e. Custom shop for making articles or products sold at retail on the premises.
- f. Freight storage or warehouse, packing and crating, express, carting or hauling stations, trucking yard or terminal.
- g. Laboratories.
- h. Manufacture, assembling, compounding, processing, packaging or comparable treatment of the following:

a) Small electrical equipment such as instruments, radios, phonographs, television, electronic tubes, coils, condensers, photographic equipment and other similar types of products.

C Accessory Uses.

- 1 On-site exterior signs, which shall be integral or attached to the building. The total area of all signs pertaining to the use of or business conducted in any building shall be no greater than fifteen (15) percent of the building frontage per side of building. Such signs shall be non-illuminated or may be illuminated with nonmoving, non-flashing and non-rotating light from a source not visible from the public right-of-way. Where the lot adjoins an "R" district, the exterior sign shall be attached flat against the building and shall not face the side of the adjacent lot located in the "R" district. A sign, pole (a sign wholly supported by a sign structure in the ground), shall have at least eight (8) feet clearance between the bottom of the sign and the ground and shall not exceed twenty (20) feet in height with a maximum of fifty (50) square feet of sign area per side and shall have a setback of no less than two (2) feet from the street right-of-way and may not extend over the public right-of-way. A sign, ground or free-standing (a sign which is supported by one or more uprights or braces in or upon the ground and not attached to any building or wall) shall not exceed thirty-two (32) square feet in area on each side and shall have a setback of at least twenty (20) feet from the street right-of-way.
2. Accessory uses and structures customarily incidental to any principal permitted use.
3. Accessory uses permitted in the "C-2" district.

D. Required Conditions.

1. 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, vibrations, refuse matter or water-carried waste.
2. Each adult entertainment establishment shall be located a minimum of one thousand (1,000) feet from any existing adult entertainment establishment.
3. Each adult entertainment establishment shall be located a minimum of five hundred (500) feet from any residentially-zoned area, church, school or park. Such measurements shall be a horizontal distance between the property line of the proposed adult entertainment establishment and the nearest residential zoning line or property line of any church, school or park.

E Area Regulations.

1. Lot Area. No minimum.
2. Lot Width. No minimum.
3. Yard Widths. The minimum front yard width is thirty (30) feet. The minimum rear yard width shall be forty (40) feet, unless the rear lot line adjoins a railroad right-of-way, in which case, none required. There shall be no minimum side yard, except adjacent to an "R" District, in which case, not less than fifty (50) feet.
4. Building Height. The maximum building height shall be three (3) stories but not more than fifty (50) feet.

165.06.12 "I-2" Heavy Industry District.

A. Intent. The heavy industry district is established as a district in which the principal use of land *is* for heavy commercial and industrial establishments, which may create some nuisance and which are not properly associated with nor compatible with residential, institutional and commercial-service establishments. The intent of this section is to:

1. Encourage the construction of and continued use of the land for heavy commercial and industrial purposes.
2. Prohibit residential use of the land and to prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district.
3. Encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this section of the ordinance.

B. Principal Permitted Uses.

1. Uses permitted in the "I-1" district, provided that no dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including such families of such employees when living with them.
2. Any other use not otherwise prohibited by law; provided, however, that the following uses shall be permitted subject to approval by the City Council after public hearing, and after report and recommendation by the Zoning Commission:
 - a. Acid manufacture.
 - b. Cement, lime, gypsum, or plaster of Paris manufacture.

- c. Distillation of bones, coal tar, petroleum, refuse, grain, or wood.
- d. D u m p .
- e. Drilling for or removal of oil, gas or other hydrocarbon substance.
- f. Explosives manufacture or storage.
- g. Fat rendering.
- h. Fertilizer manufacture.
- i. Garbage: offal or dead animal or fish reduction or dumping.
- j. Gas manufacture.
- k. Glue manufacture.
- l Grain elevators, grain drying or fee manufacture, provided that provisions are made for the recovery of the dust.
- m. Foundry casting, lightweight non-ferrous metals.
- n. Commercial swine and/or cattle feeding stations.
- o. Junk yard, including automobile and truck wrecking.
- P Mineral extraction, including sand and gravel.
- q. Petroleum or petroleum products refining.
- r. Rubber goods manufacture.
- s. Smelting of ores.
- t. Stockyard or slaughter of animals, except poultry or rabbits.
- u. T a n n e r y .
- v. Junk yard, provided all activities are conducted within a solid fenced enclosure.
- w. Mining, sand and gravel pits.

- x . Salvage yard, automobile, tractor or machinery wrecking and used parts yards, provided all activities are conducted in a closed building. The salvage yard shall be completely closed with a solid fence.

C Accessory Uses.

- 1. Signs used and permitted under the "C-1" classification.
- 2. Accessory uses incidental to a principal permitted use.

D. Required Conditions.

- 1. All principal or accessory structures housing a use permitted under the "I-2" classification shall be located a minimum two hundred (200) feet from any "R" District.
- 2. 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.

E Area Requirements.

- 1. Lot Area. No minimum.
- 2. Lot Width. No minimum.
- 3. Yard Widths.
 - a. The minimum front yard shall be thirty (30) feet.
 - b. The minimum rear yard width shall be forty (40) feet, unless the rear lot line adjoins a railroad right-of-way, in which case none is required.
 - c. There is no minimum required side yard, except adjacent to an "R" District, in which case not less than two hundred (200) feet as specified above.
- 4. Building Height. The maximum building height shall be three (3) stories but not more than fifty (50) feet.

165.07 EXCEPTIONS AND MODIFICATIONS.

165.07.01 Use of Existing Lots of Record. In any district where dwellings are permitted under the provisions of this Ordinance, a single-family dwelling may be located

on any lot or plot of official record, recorded prior to the effective date of this Ordinance, irrespective of its area or width, provided, however:

- A. The sum of the side yard widths of any such lot or plot shall not be less than thirty (30) percent of the width of the lot, with the least side width being a minimum ten (10) percent of the lot width.
- B. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case shall it be less than twenty (20) feet.
- C. When two or more lots or plots have continuous frontage under single ownership, such lots shall be considered buildable only in combinations which meet the area requirements of the district in which they are located.

165.07.02 Structures Permitted Above the Height Limit. The building height limitations set forth in prior sections of this Ordinance shall be modified as follows:

- A. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tanks, water towers, ornamental towers, spires, radio or television towers, or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereinafter adopted ordinances of the City of Van Meter.
- B. Public, semi-public, or public service buildings, hospitals, sanatoriums, or schools, where permitted in a district, may be erected to a height not exceeding forty-five (45) feet. Churches and temples when permitted in a district may be erected to a height not exceeding sixty (60) feet if the building is set back from each property line at least one (1) foot for each two (2) feet of additional building height above the height limit otherwise provided in the district in which the building is located.

165.07.03 Existing Double Frontage Lots. Buildings on through lots and extending from street to street shall provide the required front yard on both streets.

165.07.04 Computation of Rear and Side Yards. In computing the depth of a rear yard or the width of a side yard where the rear or side yard op

165.07.05 Additional Yard Exceptions. 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 except for ordinary projections not to exceed twenty-four (24) inches, including roof overhang.

In areas where some lots are developed with a front yard that is less than the minimum required for the district by this Ordinance or where some lots have been developed with a front yard greater than required by this Ordinance, the following rule shall apply: Any new building or addition in front thereof shall not be closer to the street right-of-way than the average of the front yard of the first building on each side within a distance of two hundred (200) feet measured from building to building, except as follows:

- A. Building located entirely on the rear half of a lot shall not be counted.
- B. No building shall be required to have a front yard greater than fifty (50) feet.

- C. If no building exists on one side of the lot within two hundred (200) feet, the minimum front yard shall be the same as that for the building on the other side.

165.07.06 Zoning of Annexed Areas. Any land annexed to the City of Van Meter after the effective date of this Ordinance shall be zoned "A" until the Zoning Commission and City Council shall have studied the area and adopted a final zoning plan for the area in accordance with procedures set forth in this Ordinance. The final zoning plan shall be adopted within three (3) months of date of annexation.

165.07.07 Special Use Permits.

- A. The City Council of Van Meter may by special permit, after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this Ordinance. Notice of time and place of hearing shall be given to all persons owning and/or occupying property within two hundred (200) feet, excluding public right of way, of the proposed location at least fifteen (15) days in advance of hearing by special delivery letter, and to the remaining affected property owners at least fifteen (15) days prior to the hearing by placing notices in a paper of general circulation in the City.

1. Any public building erected and used by any department of the City, Township, county, State or Federal Government.
2. Airport or landing field.
3. Community building or recreation field.
4. Hospitals, non-profit fraternal institutions provided they are used solely for fraternal purposes, and institutions of an education, religious, philanthropic, or eleemosynary character, provided that the building shall be set back from all yard lines such distance as may be required by the City Council in said special use permit.
5. Pre-schools.
6. Public cemetery.
7. Barber shop or salon.
8. Bed and Breakfast or Recreation Lodge. "Bed and Breakfast" means a single or two-family residential dwelling which is owner occupied and operated and provides lodging with meals for compensation for a period not to exceed two (2) weeks and which rents out no more than three (3) guest rooms, with no more than two beds in each room. "Recreation Lodge" means a building or establishment containing no more than three (3) guest rooms where short term sleeping accommodation (not to exceed two (2) weeks), or day use for indoor recreation events, with or without meals, are provided for compensation.

- B. In the case of a barber shop or salon, the permit shall not be considered in the event the barber shop or salon employs or retains as an independent contractor,

or shareholder any person other than the owner, joint-tenant, or tenant-in-common of the dwelling.

In the case of a salon, the use permit shall be renewed on an annual basis at an annual cost of forty-five (45) dollars. The special use permit is renewable only upon proof of the salon's license renewal on an annual basis. The special use permit is renewable for a barber shop on a biennial basis upon proof of the barber shop's license renewal at a cost of ninety (90) dollars per biennium.

- C. Before issuance of any special permit for any of the above buildings or uses, the City Council shall refer the proposed application to the City Plan and Zoning Commission, which Commission shall be given forty-five (45) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the City Plan and Zoning Commission has been filed, provided, however, that if no report is received from the City Plan and Zoning Commission within forty-five (45) days, it shall be assumed that approval of the application has been given by the said Commission. Prior to the issuance of the special use permit by the City Clerk, the applicant shall pay the actual costs of publication and postage expenses incurred for the notices required by this section.
- D. The special permit shall not be transferable to any subsequent or substitute owner. Further, the special permit issued may include time limits, and other conditions or safeguards deemed necessary or appropriate by the City Council. Violations of any of the conditions or safeguards herein shall be deemed a violation of this Ordinance and punishable under the provisions of this Ordinance. In addition, the special permit in connection with such violation shall be subject to revocation by the City Council.

165.07.08 Area Requirements. In any "R" district, where public water supply and public sanitary sewer is not accessible, the minimum lot area and frontage requirements shall be determined by the City Council of Van Meter, Iowa, in keeping with the general objectives of this Ordinance. In no case shall the minimum lot area be less than twenty thousand (20,000) square feet.

165.08 PARKING AND LOADING AREAS.

165.08.01 Off-Street Loading Space. In any district, every building or part hereafter erected, having a gross floor area of four thousand (4,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area so used in excess of four thousand (4,000) square feet. Each loading space shall be a minimum ten (10) feet in width, thirty five (35) feet in length.

165.08.02 Off-Street Parking Area.

A. In all districts, except "C-2" Commercial, space for off-street parking and storage of vehicles shall be provided in accordance with the following minimum schedules:

1. Automobile sales and service garage: one hundred (100) percent of gross floor area.
2. Bowling alleys: five (5) spaces for each alley.
3. Churches and schools, funeral home, mortuary: one (1) space for each five (5) seats in the principal auditorium.
4. Dwelling: one and one-half (1-1/2) space for each dwelling unit.
5. Hospitals and nursing homes: one (1) space for each four (4) beds.
6. Hotels, apartment hotels - one and one-half (1-1/2) space for each unit.
7. Manufacturing plant: one (1) space for each three (3) employees.
8. Motels: one (1) space for each unit.
9. Retail markets, super markets, etc.- two hundred fifty (250) percent of gross floor area.
10. Any development in the BP-1 zoning district – Not less than 1 parking space for each employee based on the maximum number of employees projected to be present at any time, plus 20%, rounded to the nearest whole number; except for less than 25 employees the minimum number of parking stalls shall be 5 more than the maximum number of employees projected to be present at any time.

B. All public or private parking areas shall be developed or maintained in accordance with the following requirements:

1. No part, except entrance and exit, or any parking lot, shall be closer than five (5) feet from any street right-of-way, alley line, or residential lot line.
2. Any off-street parking area for five (5) or more vehicles shall be hard surfaced with asphalt concrete or Portland cement concrete or other similar material of a permanent nature.

165.09 AMENDMENTS TO THE ORDINANCE

165.09.01 Procedure. The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, upon initial action by the Council, or upon application by the owner of the land involved, provided, however,

that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least seven (7) days notice of the time and place of such hearing shall be published in a general circulation in the City, and in at least three conspicuous places within the municipality, one of which shall be the City Hall, one of

When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those lots or parcels of land within a two hundred (200) foot radius of the boundary lines of the proposed change, then such amendments shall

not become effective except by the favorable vote of three-fourth (3/4) of the City Council.

No provision of Chapter 165 should be construed to impact a change in requirements with regard to an existing zoning classification. In the case of additional or different requirements for an existing use, the only notice provided will be publication as required by Iowa Code, Section 414.4 as amended from time to time.

165.09.02 Filing Fees. Before any action shall be taken as provided in this part, the party or parties proposing a change in district regulations or boundaries shall have deposited with the City Clerk the sum of seventy-five (75) dollars to cover the approximate costs of this procedure and under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

165.09.03 Rejection of Amendments. In the event any application seeking amendment of the zoning ordinance is submitted by the owner of the land involved and such application for amendment to the zoning ordinance is rejected by the council, no application seeking amendment to the zoning ordinance as it affects the same real estate shall be considered by the Planning and Zoning Commission for sixty (60) days from the date the Council rejects the previous application.

165.10 BOARD OF ADJUSTMENT

165.10.01 Procedure.

- A. Board Created. A Board of Adjustment is hereby established, which shall consist of five (5) members. The terms of office of the members of the Board of Adjustment and the manner of their appointment shall be as provided by Statute.
- B. Meetings. The meetings of the Board shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the Board and shall be a

public record. The presence of three (3) members shall be necessary to constitute a quorum.

- C. Appeals. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Van Meter affected by any decision of the inspector of buildings. Such appeal shall be taken within ten (10) days by filing with the inspector of buildings and with the Board a notice of appeal specifying the grounds thereof. The inspector of buildings shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the inspector of buildings certifies to the Board, after notice of appeal should have been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the inspector of buildings, and on due cause shown.

The Board shall fix a reasonable time not to exceed sixty (60) days 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 by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee of fifteen (15) dollars to be credited to the general fund of the City of Van Meter.

165.10.02 Powers and Duties of the Board. The Board shall have the following powers, and it shall be its duty:

- A. To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the inspector of buildings in the enforcement of this Ordinance.
- B. To grant a variation in the regulations when a property owner can show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other strict application of the terms of this Ordinance actually prohibits the use of his property in a manner reasonably similar to that of other property in the District, or where the Board is satisfied under the evidence before it, that the granting of such variation will alleviate a clearly demonstrable hardship; provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this Ordinance.
- C. To permit the following exceptions to the district regulations set forth in this Ordinance, provided all exceptions shall be their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding 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 premises or vary the height and the 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 extension of a district where the boundary line of a district divides a lot in a single ownership as shown of record or by existing contract or purchase at the time of the passage of this Ordinance, but in no case shall such extensions of the district boundary line exceed forty (40) feet in any direction.

165.11 CERTIFICATE OF ZONING COMPLIANCE

- A. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this Ordinance
- B. 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 therefor by the Zoning Administrator. No permit shall be issued to make a change unless the changes are in conformity with the provisions of this Ordinance
- C. Nothing in this part shall prevent the continuance of a non-conforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property.
- D. Certificates for zoning compliance shall be applied for coincidentally with the application for a building permit, and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed. A record of all 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.
- E. No permit for excavation for, or the erection or alteration of any building shall be issued before the application has been made for certificate of zoning compliance, and no building or premises shall be occupied until that certificate and permit is issued.

165.12 ADMINISTRATION

165.12.01 Zoning Administrator. The City Council shall appoint Zoning Administrator, who shall be charged with the responsibility of enforcement of this Ordinance. The Zoning Administrator shall have the following powers and duties:

- A. To inspect and approve the zoning compliance application for conformance to the Zoning Ordinance, before the building permit is issued by the Building Department.

- B. To report all zoning violations to the City Council, including a written report of the facts pertaining to such violation.
- C. To attend all meetings of the Plan and Zoning Commission.
- D. To act as Secretary of the Board of Adjustment and to carry out and enforce any decisions or determinations by such Board.

165.12.02 Plats. Each application for a building permit shall be accompanied by a plan in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this Ordinance. The Zoning Enforcement Officer must approve such building permit applications for conformance to the Zoning Ordinance before a building permit can be issued.

165.13 ENFORCEMENT, VIOLATION AND PENALTIES.

165.13.01 Enforcement. The City Council shall enforce the provisions of this Ordinance through the proper legal channels, but may delegate the duty of administering it to such officials of the City as it may deem proper.

Any person objecting to the ruling of any official on the administering of the provisions of this law shall have the right to appeal to the Board of Adjustment.

165.13.02 Violation and Penalties. In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is or is proposed to be used in violation of this Ordinance or any amendment or supplement thereto, the city or adjacent or neighboring property owners who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate actions or proceedings to prevent, enjoin, abate or remove such lawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance, is guilty of a misdemeanor and, upon conviction, may be fined up to one hundred (100) dollars for each offense. Each day that a violation is permitted to exist constitutes a separate offense.

165.14 VALIDITY AND EFFECTIVE DATE.

165.14.01 Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

165.14.02 This ordinance shall be in force and effect after its passage, approval and publication as provided by law.

CHAPTER 165A

MILL STREET GATEWAY CORRIDOR DISTRICT

165A.01 Statement of Intent	165A.11 General Landscape and Buffer Requirements
165A.02 Abrogation and Greater Restrictions	165A.12 Public Service Infrastructure
165A.03 Interpretation of Standards	165A.13 Building Restrictions, Easements and Covenants
165A.04 Validity	165A.14 Development Standards
165A.05 Title	165A.15 Service Bays and Drive Areas
165A.06 Effective Date	165A.16 Curbs and Curb Cuts
165A.07 Site Plan Review	165A.17 Lighting
165A.08 Graphic Required	165A.18 Fees
165A.09 Off-Street Parking and Loading Requirements	165A.19 Waiver of Requirements
165A.10 Reserved	

165A.01 STATEMENT OF INTENT. It is the intent of the City of Van Meter that the Mill Street Gateway Corridor be developed in a manner that provides an appropriate aesthetic entrance to the City of Van Meter along its primary entrance of Mill Street. The Mill Street Gateway Corridor District provides for certain requirements for development within the district compatible with the intent of the City in establishing the Mill Street Gateway Corridor District. The Mill Street Gateway Corridor District is an overlay district and does not impact the underlying zoning district. The Mill Street Gateway Corridor District is intended to:

1. Provide development standards for the Mill Street Gateway to the City of Van Meter consistent with the goals and objectives of the adopted Comprehensive Land Use Plan.
2. Promote flexibility in design, placement of buildings, use of open space, pedestrian and vehicular circulation facilities, and off-street parking areas in a manner that will best utilize the potential of sites characterized by special nature of Mill Street area.
3. Provide for the enhancement of the natural setting through careful and sensitive placement of man-made facilities and plant materials.

Developers shall be encouraged to incorporate features with landscaping that add to aesthetics and visual attraction of the area.

165A.02 ABROGATION AND GREATER RESTRICTIONS. It is not the intention by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, or ordinances, previously adopted or issued pursuant to law. However, in the Mill Street Gateway Corridor District wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

165A.03 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions outlined in this Ordinance shall be interpreted and applied as minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Ordinance shall control. This Ordinance shall not be deemed a limitation or repeal of any other power granted by the Code of Iowa.

165A.04 VALIDITY. If a section, clause, provision, or portion of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, that decision shall not affect the validity of this Ordinance, as a whole or any part thereof other than the part so declared to be invalid.

165A.05 TITLE. This Ordinance shall be known as, referred to, or cited as the "Mill Street Gateway Corridor District" of the City of Van Meter, Iowa.

165A.06 EFFECTIVE DATE. This Ordinance shall be effective after adoption and publication by the Van Meter City Council as required by Chapter 414, Code of Iowa, 2011.

165A.07 SITE PLAN REVIEW. Site plan review for development in the Mill Street Gateway Corridor shall be in accordance with provisions of Chapter 166 of the Code of Ordinances. Prior to the submission of a site plan within the Mill Street Gateway Corridor District, a pre-application conference with the City Administrator is recommended.

165A.08 GRAPHIC REQUIRED. The applicant must also include graphic renderings that illustrate the proposed development. Copies shall also be submitted two (2) weeks prior to the presentation date to all appropriate City designees. These rendered graphic illustrations shall be used to ensure the approved appearance of the project is completed and maintained.

165A.09 OFF-STREET PARKING AND LOADING REQUIREMENTS. Parking lots should be effectively landscaped with trees and shrubs to reduce the visual impact of glare from headlights and parking lot lights and the view from public right-of-way and adjoining properties.

1. The parking space requirements listed in Section 165.34 and 165.35 Off-Street Loading and Off-Street Parking regulation in the City of Van Meter Zoning Ordinance shall be incorporated.
2. Any additional parking spaces shall be oriented so that no vehicle is required to back directly into a street right-of-way.
3. All exterior parking light structures shall be designed in conjunction with the overall architectural theme of the project.
4. Required parking spaces shall have a minimum size of nine (9) feet wide by eighteen (18) feet long exclusive of access drives, aisles or ramps. The length of parking stalls may be reduced to sixteen and one-half (16 1/2) feet including wheel stops if an additional one and one-half (1 1/2) feet is provided for the overhang of wheels.

165A.10 RESERVED.

165A.11 GENERAL LANDSCAPE AND BUFFER REQUIREMENTS. The landscaping requirements are minimum standards and applicable to areas used for the parking of one or more vehicles to traverse back and forth to parking spaces, service bays, and loading/unloading areas. The landscaping requirements shall provide effective buffering of all vehicular use areas, including service bays, from neighboring buildings and from street view and shall serve to guide traffic. Walls, fences or other artificial screens to be used as buffers

shall be shown in elevation and prospective. Proposed height and structural material to be used shall be clearly indicated on the site plan.

1. INTERIOR OF LOT. Interior lot landscaping shall be provided by landscaped islands or medians within the vehicular area and shall be used to guide traffic and separate pedestrian walkways from vehicular traffic. One such landscaped island or median shall be placed for every twelve (12) parking spaces and shall be a minimum of sixty (60) square feet in area. Landscaped islands may be grouped or combined to meet interior landscape requirements provided the total square footage of any single grouping does not exceed one hundred-twenty (120) square feet. The use of ornamental shrubs and coniferous trees shall be encouraged. The ground cover of the island shall consist of grass and/or shrubs, excluding paving.

2. PERIMETER OF LOT ADJACENT TO ABUTTING PROPERTY. On the perimeter(s) of the lot adjacent to abutting residential property, a continuous, unbroken barrier is required for the purpose of buffering service bays, loading and unloading areas, and off-street parking or other vehicular use areas exposed to abutting property.

- A. The barrier shall be located between the common lot line and the service bay, loading or unloading area, off-street parking or other vehicular use area. The barrier shall be a minimum of six (6) feet in height consisting of a natural material such as wood fence, an earth berm or an opaque hedge or any combination thereof. Additional buffer strip area may be required for developments greater than twenty-five thousand (25,000) square feet of building area.
- B. At a minimum, one tree shall be provided every fifty (50) linear feet. Such trees shall be located or grouped between the common lot line and the service bay, loading or unloading area, off-street parking or other vehicular use area. The developer is strongly encouraged to use appropriate landscaping techniques to ensure the overall character of the site is maintained.
- C. The provisions of the subsection shall not apply when the proposed perimeter abuts an existing wall or durable landscape barrier on an abutting property, provided the barrier meets all applicable standards set out in this Ordinance.

3. PERIMETER OF LOTS ADJACENT TO PUBLIC RIGHT-OF-WAY. On the perimeter(s) of the lot adjacent to public rights-of-way, a strip of land of at least ten (10) feet in depth located between the right-of-way and the off-street parking or other vehicular use area shall be landscaped to include one (1) tree for every fifty (50) feet or fraction thereof. Such trees shall be located between the abutting right-of-way and the off-street parking or other vehicular use area and shall be planted singularly or grouped in a planting area of at least twenty-five (25) square feet. In addition, a hedge, wall, earth berm, or other durable landscape barrier a minimum of three (3) feet in height shall be placed along the perimeter of such landscape strip. If said barrier consists of non-living material, one (1) shrub shall be planted every ten (10) feet and

abutting the barrier. The remainder of the required landscape strip shall be planted with grass, ground cover or other landscape material, exclusive of paving.

4. **VISUAL CLEARANCE.** To insure landscaped areas do not constitute a driving hazard, safety triangle setback requirements are as follows:

- A. At access ways the sight triangle shall be formed by measuring ten (10) feet along the intersection of each side of the access way and the public right-of-way line and connecting these two points.
- B. At street intersections the sight triangle shall be formed by measuring thirty-five (35) feet along curb lines and connecting these points.

5. **INSTALLATION OF LANDSCAPE.** All landscaping shall be installed in an appropriate manner in order to maintain the health and quality of plant material. No certificate of use shall be authorized unless all landscaping requirements are met.

6. **PROTECTION OF LANDSCAPED AREAS.** The placement of barrier curbs or wheel stops is required to protect all landscaped areas from vehicular damage.

7. **EXISTING PLANT MATERIAL.** Existing, healthy plant material on site may be used as a credit towards fulfilling the landscaping requirements specified in this section.

8. **LANDSCAPE VEGETATION STANDARDS.** Landscape vegetation shall consist of species compatible with conditions in Central Iowa and shall meet the following standards. Landscaping to be used for screening purposes shall be illustrated in elevation and perspective as well as plan with the size and exact names of plants, shrubs or trees to be planted clearly indicated. On all site plans, the following requirements shall be met:

- A. Minimum requirements: Two (2) trees or two (2) trees per three thousand (3,000) square feet of required open space, fifty (50) percent two (2) inch caliper and the remaining eight (8) feet to ten (10) feet in height and one and one-half (1 'A) inch caliper. The trees shall be balled or burlap stock. The minimum height for evergreens shall be six (6) feet and may be counted as 2 inch caliper for requirements. The trees must live for at least twelve (12) months after planting or be replaced by the landowner.
- B. Minimum requirements: One shrub shall be planted for every one thousand (1,000) square feet of open space, but no less than three shrubs per lot.
- C. Enforcement: Landscaping plan to be submitted for approval as part of final site plan submittal. Landscaping plan is to show the following information:

- (1) Location of trees and shrubs.
- (2) Size and species of trees and shrubs.
- (3) Percentage of each size of tree.

(4) Type of ground cover and form of maintenance.

- D. Approval of landscaping in-place is to be requested by the developer at the time occupancy permit is requested. Any changes or deviation from the approved site plan landscape design shall be approved by the Zoning Administrator prior to installation. Landscaping materials shall be planted as each phase of a site is developed. Should completion of landscaping be delayed due to season of the year, a temporary occupancy permit may be issued if the developer posts a bond in the amount of the landscaping not completed. At the developer's option and at the time of site plan filing, he/she may submit a list of alternate or substitute species from the permitted or established list to be used should the preferred material not be available when needed and required.
- E. Ground cover plants shall form a solid mat or cover over the ground within a twelve (12) month period. Sod shall be employed when grass is used as a ground cover in Zone 1. Non-living material shall not be used as the primary ground cover device, but may be used in conjunction with living plant material to develop an ornamental landscaping effect. Non-living materials such as rocks, pebbles, sand, wood mulch or wood chips shall be placed at a minimum depth of three (3) inches and shall be used in conjunction with an appropriate landscape weed control fabric.

165A.12 PUBLIC SERVICE INFRASTRUCTURE . Adequate facilities shall be provided to meet the needs of the proposed mixed use development with respect to: drainage of surface waters, detention of storm surface waters, including storm sewers, gutters, sanitary sewerage; flood protection and levees when appropriate; underground utilities; requirements set out in the Van Meter Zoning Ordinance and Subdivision Regulations; and any other provisions for public services necessary as determined by the City. No above ground electrical communication equipment may be located in any set back from a public street, and all above ground electrical and communications equipment must be screened from view by the general public by an opaque screen constructed of either wood or brick.

165A.13 BUILDING RESTRICTIONS, EASEMENTS AND COVENANTS . The Developer of property owner shall with the approval of the City Council of Van Meter adopt building restrictions, easements and covenants pertaining to each parcel developed where the developer and the City deem appropriate.

165A.14 DEVELOPMENT STANDARDS . Each parcel shall be developed based upon a single Site Plan with buildings compatible in design and use of materials. The Site Plan shall contain, but not be limited to, parts such as an architectural project theme plan, landscape plan, master signage plan, water management plan, pedestrian and vehicular traffic plan and parking plan. All new developments shall be built in a cohesive and uniform manner creating a campus-like setting with all buildings and the overall site developed as a single or unified development. Any development shall have a minimum open green space of twenty (20) percent.

165A.15 SERVICE BAYS AND DRIVE AREAS. The service bay drives, trash receptacles and dumpster areas located shall not face Mill Street and shall not face abutting residential property. The purpose of this is to mitigate the negative effect of such service areas,

such as noise, odor, refuse, and visual pollution from residential development and for motor travelers entering the City of Van Meter.

1. All service bays, loading and unloading areas must be screened by an opaque fence of a height sufficient to adequately screen the bay or area from Mill Street and consisting of wood or brick. No service bays, loading or unloading areas, trash receptacles and dumpsters may be located in or face any set back from a public right-of-way. In cases where a substantial green space exists a landscape/berm screen can be provided, which must provide a 75% opaque view within 18 months. The majority of the landscape material shall be coniferous to provide a year-round screen.

2. Service bays and drives, trash receptacles and dumpster areas shall be oriented in such a way that in the process of loading or unloading, no vehicle will block the passage of other vehicles on the service drive or extend into any other public or private street.

165A.16 CURBS AND CURB CUTS. The number of curb cuts for any particular development shall be minimized to the greatest extent possible to provide for controlled ingress and egress within the Mill Street Gateway Corridor District.

1. All curbs shall be vertical curbs. No roll over curbs shall be permitted in the Mill Street Gateway Corridor District. No curb cut shall be greater than twenty-five (25) feet at the property line and thirty-five (35) feet at the curb line in accordance with the established City standards.

2. No curb cut for freight lanes shall be greater than thirty-five (35) feet at the property line and forty-five (45) feet at the curb line, unless an alternative curb cut width is approved by the Planning and Zoning Commission.

165A.17 LIGHTING. The maximum height for any light fixture is thirty-five (35) feet, except on the side or sides of a development abutting a residential use, in which case the maximum height of twenty-five (25) feet shall be allowed.

1. All light structures shall be shaded or hooded and oriented inward so as to prevent intrusion into surrounding areas.

2. All lighting fixtures must be drawn to scale and submitted for review along with the project plans to allow for a uniform lighting plan in the area.

165A.18 FEES. Fees for development in the Mill Street Gateway Corridor District shall be: Site Plan Review, \$150.00; Amendment to an Approved Hwy Mill St Mixed Use Development Corridor District Site Plan, based on a flat fee per amendment, \$250.00; and Additions or Renovations to Development Existing Prior to the Hwy Mill St Mixed Use Development Corridor District, \$250.00.

165A.19 WAIVER OF REQUIREMENTS. Any one or more of the requirements set forth in this Chapter 165A may be waived by the Planning and Zoning Commission for reasons of safety or engineering, as the Commission may determine. No waiver shall be authorized or permitted for relief from any of the requirements of this Chapter 165A for reasons related primarily to the costs of compliance or aesthetic preferences. Any person

seeking a waiver under this Section shall submit a written application to the Planning and Zoning Commission which shall include a detailed description of the safety or engineering need for a waiver.

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CHAPTER 166

SITE PLAN REGULATIONS

166.01	Site Plans	166.06	Multiple-Family Dwelling and Townhome Standards
166.02	Statement of Intent	166.07	Amendments to Approved Site Plans
166.03	Design Standards	166.08	Additional Requirements
166.04	Submittal and Review Procedure	166.09	Expiration of Approval
166.05	Site Plan Information	166.10	Fee for Site Plan Review

166.01 SITE PLANS. Site plans are required whenever the owner of any property in the City undertakes new construction, re-construction, expands an existing building by twenty (20) or more percent of the area of the existing building, or remodels an existing building with a building permit value of \$25,000 or more (collectively "improvements" or "development"), except for the construction of single-family or two-family homes on existing platted lots. Site Plans are required for multiple-family dwellings and townhomes.

166.02 STATEMENT OF INTENT. It is the intent and purpose of this Chapter to establish a procedure which will enable the City to review certain proposed improvement to and development of property. The Site Plan shall be designed to reflect consideration for (a) impacts to existing and proposed developments surrounding the site; (b) impact on public rights-of-way, utilities, facilities, and services; and (c) impact to existing on-site conditions.

166.03 DESIGN STANDARDS. Site Plans shall reflect the following standards of design which are necessary to insure the orderly and harmonious development of property in such manner as will safeguard property values and the public's health, safety and general welfare.

1 The design of the proposed improvements shall make adequate provisions for surface and subsurface drainage, for connections to water and sanitary sewer lines, each so designed as to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide, or other endangerment of adjoining or surrounding property.

2. The proposed development shall be designed with a proper regard to topography, surface drainage, natural drains and streams, wooded area, and other natural features which will lend themselves to proper, harmonious and attractive development of the site.

3. The proposed improvements shall be designed and located within the property in such manner as not to unduly diminish or impair the use and enjoyment of adjoining property, and to this end shall minimize the adverse effects on such adjoining property from automobile headlights, illumination of required perimeter yards, refuse containers, and impairment of light and air. Lighting, and its impact on adjacent property, shall be shown on the Site Plan. For the purpose of this section, the term "use and enjoyment of adjoining property" shall mean the use and enjoyment presently being made of such adjoining property, unless such property is

vacant. If vacant, the term "use and enjoyment of adjoining property" shall mean those uses permitted under the zoning districts in which such adjoining property is located.

4. The proposed development shall have such entrances and exits upon adjacent streets and such internal traffic circulation pattern and will not unduly increase congestion on adjacent or surrounding public streets. Public streets are required in all multiple-family and townhouse developments. Any proposed development which will include a loading dock or truck entrance facing an exterior street must, as a part of the Site Plan approval process, conform to any and all requirements which may be established by the City with respect to the location of such loading dock or truck entrance.

5. The proposed development shall have such buffers, screen fences and landscaping and shall be designed, and the buildings and improvements located, in such a manner as to not unduly diminish or impair the use and enjoyment of adjoining or surrounding property.

6. The proposed development shall not unduly increase the public danger of fire or diminish the public safety, and shall be designed to adequately safeguard the health, safety, and general welfare of the public and of persons residing and working in the development and in the adjoining or surrounding property.

7. The proposed development shall utilize stormwater management to limit the release from any site to no more than a five (5) year undeveloped release rate.

8. The proposed development shall conform to all applicable provisions of the Code of Iowa, as amended, and all applicable provisions of the Code of Ordinances, as amended.

166.04 SUBMITTAL AND REVIEW PROCEDURE. Site Plans shall be submitted to the City for review and approval.

1. Ten (10) copies of the Site Plan shall be submitted to the City Clerk and two (2) copies shall be submitted to the City Engineer who shall refer the Site Plan to the Plan and Zoning Commission for comment and recommendation prior to action by the City Council. A Site Plan must be submitted no later than 15 days prior to a meeting of the Plan and Zoning Commission. Prior to an official submittal of the Site Plan for review by the Plan and Zoning Commission, an applicant may submit a concept and Site Plan for initial review by the City Engineer for comment.

2. The Clerk may refer the Site Plan to appropriate City departments and officials for their review and comment regarding the Site Plan's compliance with the Code of Ordinances, and its effects upon the City's municipal utilities and public street system. Any comments by any department or official will be forwarded to the Plan and Zoning Commission.

3. The Plan and Zoning Commission shall, after receiving a report from the City Engineer, review the Site Plan for conformity with the regulations and design and

architectural standards of this Chapter, and may confer with the applicant on changes deemed advisable in the Site Plan.

4. The Plan and Zoning Commission shall forward its recommendation to the City Council for approval, modification, or disapproval of the Site Plan within forty-five (45) days of the date of the submission of the Site Plan.

5. The Plan and Zoning Commission may, in its discretion, hold a public hearing on the Site Plan and prescribe the notice thereof and to whom such notice shall be given.

6. Upon receipt of the recommendations of the Plan and Zoning Commission or, if no recommendations are received within forty-five (45) days of the referral to the Commission, the Council shall proceed with its action on the Site Plan. The Council may approve the Site Plan, approve the Site Plan with modifications, or disapprove the Site Plan.

7. No building permit for any structure for which a Site Plan is required shall be issued until the Site Plan has been approved by the Council.

166.05 SITE PLAN INFORMATION. The purpose of the Site Plan is to show all information needed to enable the City Engineer, City staff, the Plan and Zoning Commission, and the Council to determine if the proposed development meets the requirements of this Chapter and other provisions of the Code of Ordinances.

1. Information Required. The Site Plan 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, address, project location, proposed land use and present zoning, location and names of adjoining subdivisions, the numbers of the adjoining lots therein and the names and addresses of adjoining landowners.
- C. If the applicant is other than the legal owner, the applicant's interest shall be stated.
- D. Name and address of persons who prepared the Site Plan.

2 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. Existing and proposed contour lines of the proposed development and fifty (50) feet beyond the boundaries of the proposed

development at intervals of not more than two (2) 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 use of building materials, location, size, height, shape, use, elevation, building sign type, and illustration of all buildings or structures in the proposed development. Samples of building materials may be required for review at the Planning and Zoning meeting.
- E. The total square footage of building floor areas, both individually and collectively in the proposed development.
- F. Existing buildings, rights-of-way, public sidewalks, street improvements, utility easements, drainage courses, streams and wooded areas.
- G. The number of dwelling units, offices, etc., planned for the site.
- H. A vicinity sketch showing adjacent existing land uses within five hundred (500) feet of the property.
- I. Location number, dimensions and design of off-street parking in the proposed development, including:
 - (1) Driveways, islands and planters.
 - (2) Striping and curbs.
 - (3) Loading facilities.
 - (4) Type and location of lighting.
 - (5) Surface treatment.
- J. Open spaces, recreational areas, public sidewalks, walkways and driveways, outside lighting, walls, fences, monuments, statues, and other manmade features to be used in the landscape of the proposed development.
- K. Facilities for the collection and disposal of garbage and trash, and

screening structures.

- L. Walls, fences, or other artificial screens to be used as buffers shall be shown in elevation and prospective with proposed height and structural material indicated.
- M. A Site Lighting Plan shall be provided, indicating the location, type, fixture height, power rating and shielding method of all existing and proposed lighting. A photometric plan shall be provided that details the horizontal illumination of the site and the vertical light trespass along the perimeter of the site.
- N. Stormwater Management Plan shall be provided which shall include calculations of detention sizing and release rate control facilities.
- O. Traffic considerations or utility capacities and all other considerations pertinent to the proposed use may be requested for illustration or statistical purposes.
- P. Free standing identification signs(s); location, setback, dimensions, height and illustrations.
- Q. Location and type of all plants, trees, ground cover to be used in the landscape. Landscaping to be used for screening purposes shall be illustrated with the size and exact names of plants, shrubs or trees to be planted clearly indicated. The planting location shall not adversely affect utility easements or service lines. On all Site Plans the following requirements shall be met.
- R. Such additional information, drawings, or other materials necessary to describe a proposed project as may be requested by the City Engineer or Plan and Zoning Commission.

166.06 MULTIPLE-FAMILY DWELLING AND TOWNHOME STANDARDS.

Multiple-family and townhome projects shall be designed in compliance with certain standards which shall be set forth in the presentation of the Site Plan.

1. The Site Plan shall provide the required parking stalls for each dwelling unit located in driveways and dedicated parking lot area, exclusive of parking provided in garages. The parking stall requirement shall be satisfied with no on-street parking.
2. The Site Plan must provide a distance of at least twenty-three (23) feet from the property side of any sidewalk to any residence or garage face.

3. Sidewalks shall be required along both sides of all streets unless an alternate pedestrian access plan is approved that provides access to all residential dwelling units.

166.07 AMENDMENTS TO APPROVED SITE PLANS. An approved Site Plan may be amended when there is any change in location, size, design, conformity or character of buildings and other improvements, provided that the amended Site Plan conforms to the provisions of this Chapter and other provisions of the Code of Ordinances. An amended Site Plan shall be submitted to the City and reviewed by the Plan and Zoning Commission and approved by the City Council in the same manner as an original Site Plan.

166.08 ADDITIONAL REQUIREMENTS. As part of the Site Plan approval process, the property owner may be required by the Council to install public utilities, including but not limited to, water lines, storm sewer, sanitary sewer, fire hydrants, and such other utilities as applicable to properly serve the proposed plan. The property owner may also be required by the Council to construction street paving and sidewalks as applicable to properly serve the proposed plan. Where required as part of a Site Plan approval, utilities, streets, and sidewalks shall be constructed in accord with the City's construction standards for those portions within the public right-of-way and to be dedicated to the City. Utilities, streets, and sidewalks may also be required to be constructed to the same specifications for those undedicated portions where such utilities and improvements may have a direct affect on the future safety, proper functioning and maintenance of those portions to be dedicated.

166.09 EXPIRATION OF APPROVAL. All Site Plan approvals shall expire and terminate three hundred sixty-five (365) days after the date of Council approval unless a building permit has been issued for the construction provided for in the Site Plan. The Council may, upon written request by the property owner, extend the time for the issuance of a building permit for sixty (60) additional days. In the event the building construction provided for in a Site Plan expires or is cancelled, then such Site Plan approval shall thereupon terminate.

166.10 FEE FOR SITE PLAN REVIEW. The fee for filing of a Site Plan shall be \$250 plus reimbursement to the City by the person submitting the Site Plan and any amended Site Plan for all costs incurred by the City including Engineers' cost. SECTION 3: Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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CHAPTER 170

SUBDIVISION REGULATIONS

170.04	GENERAL PROVISIONS	170.08	ADMINISTRATION
170.12	DEFINITIONS	170.16	APPROVAL PROCEDURE
170.20	PLATS	170.28	DESIGN STANDARDS
170.32	PARK AND RECREATIONAL AREAS	170.36	IMPROVEMENTS
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170.52	ENFORCEMENT	170.56	PENALTIES

Chapter 170.04 - GENERAL PROVISIONS

Sections:

170.04.010	Title.
170.04.020	Purpose.
170.04.030	Jurisdiction

170.04.010 Title. These regulations shall be known as the "Subdivision Regulations of Van Meter, Iowa."

170.04.020 Purpose.

- A. In the best interests of the city and to assist the subdivider in harmonizing his interests with those of the city, the following regulations are adopted in order that adherence to same will bring results that are beneficial to both parties. It is deemed necessary to establish minimum standards for the design and development of all new subdivisions in order to eliminate piece-meal planning and to insure sound community growth and safe-guarding of the interests of the homeowner, the subdivider, and the local government.
- B. It shall be the duty of the commission to require that all regulations set forth in this title be complied with, before giving their approval. It is the purpose of this title to make regulations and requirements for the platting of land which the City Council deems necessary for the health, safety and general welfare of the citizens.

170.04.030 Jurisdiction. In accordance with the provisions of Section 354.8 and 354.9, Code of Iowa, 1991, as amended, the ordinance codified in this title is adopted by the City, governing the subdivision of all lands within the corporate limits of the City of Van Meter, Iowa, and within two (2) miles distance from the City's boundaries. Accordingly, all subdivisions or plats of survey located in the following areas are subject to review by the City Council of the City of Van Meter:

Areas in Township 78 North, Range 27 West of the 5th P.M., Dallas County, Iowa which are within 2 miles of the revised City Limits of Van Meter, Iowa.

S 1/2 SE 1/4 Section 8; S 1/2 Section 9; S 1/2 SW 1/4 Section 10; SW 1/4 SW 1/4 Section 13; SW 1/4 NE 1/4, NW 1/4 & S 1/2 all in Section 14; Section 15; Section 16; Section 17 except the NW 1/4 of the NW 1/4; SE 1/4 SE 1/4 Section 18; E 1/2 Section 19; Section 20; Section 21; Section 22; Section 23; W 1/2 and W 1/2 SE

1/4 Section 24; Section 25 except E 1/2 NE 1/4 & E 1/2 SE 1/4; Section 26; Section 27; Section 28; Section 29; E 1/2 Section 30; E 1/2 Section 31; Section 32; Section 33; Section 34; Section 35; and W 1/2 and W 1/2 NE 1/4 Section 36; all in Township 78 North, Range 27 West of the 5th P.M., Dallas County, Iowa.

Areas in Township 77 North, Range 27 West of the 5th P.M., Madison County, Iowa which are within 2 miles of the revised City Limits of Van Meter, Iowa.

W 1/2 NW 1/4 Section 1; Section 2 except SE 1/4 SE 1/4; Section 3; Section 4; SE 1/4, E 1/2 NW 1/4, NE 1/4 SE 1/4, SE 1/4 SE 1/4, NW 1/4 SE 1/4 Section 5; NE 1/4, N 1/2 NW 1/4 Section 9; N 1/2 Section 10 and N 1/2 NW 1/4 Section 11 all in Township 77 North Range 27 West of the 5th P.M. Madison County, Iowa.

The City Clerk of the City of Van Meter shall record this ordinance with the County Recorders for both Dallas and Madison Counties and file the same with the County Auditors of those counties as well.

170.080.010-170.080.030

Chapter 170.08 ADMINISTRATION

Sections:

- 170.08.010** **Generally.**
- 170.08.020** **City Council.**
- 170.08.030** **Plan and Zoning Commission.**

170.08.010 Generally. The offices set out in this chapter of the government of the city are concerned with the administration of this title.

170.08.020 City Council. The City Council is vested with the following responsibilities with regard to subdivision control:

- A. Approval or disapproval of all preliminary and final plats referred to it by the commission and make determinations in the areas of design standards, engineering specifications, and park and recreational areas.
- B. Approval or disapproval of all variations and exceptions recommended by the commission.

- C. Amendment of the regulations of this title when found necessary and desirable, as hereinafter provided.
- D. Initiation of appropriate proceedings to enforce the provision of this title

170.08.030 Plan and Zoning Commission. The Plan and Zoning Commission shall administer the provisions of this title, and in furtherance of the authority, shall:

- A. Maintain permanent and current records of this title, including amendments thereto.
- B. Receive and file all preliminary plats and final plats, together with applications.
- C. Forward copies of the preliminary plat to other appropriate offices and agencies for their recommendations and report.
- D. Forward, with recommendations to the Council, all preliminary plats.
- E. Receive and file all final plats, and check their compliance with the preliminary plat.
- F. Forward, with recommendations to the council, all final plats.
- G. Make all other determinations required by the regulations in this title.

170.12.010-170.12.380

Chapter 170.12 - DEFINITIONS

Sections:

- 170.12.010** Generally.
- 170.12.015** Aliquot Part.
- 170.12.020** Alley.
- 170.12.025** Auditor's Plat.
- 170.12.030** Block.
- 170.12.040** Building Setback Line.
- 170.12.050** City Council.
- 170.12.060** Clerk/Treasurer.
- 170.12.070** Collector Street.
- 170.12.080** Commission.

170.12.090	Comprehensive Plan.
170.12.095	Conveyance.
170.12.100	Cul-de-sac.
170.12.110	Days.
170.12.120	Design Standards.
170.12.130	Developers.
170.12.135	Division.
170.12.140	Easement.
170.12.150	Engineer.
170.12.170	Final Plat.
170.12.180	Frontage Street.
170.12.190	Grading Plan.
170.12.200	Highway.
170.12.210	Improvements.
170.12.220	Intersection.
170.12.230	Lot.
170.12.240	Maintenance Bond.
170.12.250	Thoroughfare.
170.12.260	Minor Street.
170.12.270	Outlet.
170.12.275	Parcel.
170.12.280	Performance Bond
170.12.280	Performance Bond.
170.12.290	Plat.
170.12.300	Preliminary Plat.
170.12.310	Replat and Resubdivision.
170.12.320	Roadway.
170.12.330	Shall and may.
170.12.340	Street.
170.12.350	Street, Private.
170.12.360	Subdivider.
170.12.370	Subdivision.
170.12.375	Tract.
170.12.380	Used for.

170.12.010 **Generally.**

- A. Whenever the words and phrases set out in this chapter are used in this title, they shall be given the meanings attributed to them in this chapter.
- B. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular.
- C. All other terms used in the regulations set out in this title shall have their normal meaning, except that terms common to engineering and surveying shall be used in their professional sense.

170.12.015 Aliquot Part. "Aliquot part" means a fractional part of a section within the United States Public Land Survey System. Only the fractional parts one-half, one-

quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

170.12.020 Alleys. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

170.12.025 Auditor's Plat. Auditor's plat. "Auditor's plat" means a subdivision plat required by either the county auditor or the county assessor, prepared by a surveyor under the direction of the county auditor.

170.12.030 Block. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land or the boundary of a subdivision.

170.12.040 Building Setback Line. "Building setback line" means a line within a lot or parcel of land, so designated on the plats, between which line and a street no building or structure may be erected.

170.12.050 City Council. "City Council" means the governing body of Van Meter, Iowa.

170.12.060 Clerk/Treasurer. "Clerk/Treasurer" means the Clerk/Treasurer of the City of Van Meter, Iowa.

170.12.070 Collector Street. "Collector street" means a street intended to carry vehicular traffic from minor streets to major streets and/or thoroughfare systems.

170.12.080 Commission. "Commission" means the plan and zoning commission of Van Meter, Iowa.

170.12.090 Comprehensive Plan. "Comprehensive plan" means the general plan for the development of the community, which may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the City Council. Such "comprehensive plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

170.12.095 Conveyance. "Conveyance" means an instrument filed with a county recorder as evidence of the transfer of title to land, including any form of deed or contract.

170.12.100 Cul-de-sac. "Cul-de-sac" means a minor street having one open end and being permanently terminated by a vehicular turn-around.

170.12.110 Days. "Days" refers to calendar days.

170.12.120 Design Standards. "Design standards" shall mean the current version of the Statewide Urban Design Standards and any special design standards adopted by the City of Van Meter. Special or specific design standards adopted by the City of Van Meter shall take precedence over the general requirements of the Statewide Urban Design Standards.

170.12.130 Developers. "Developers" means the owner or agent under legal authority of the owner or owners who undertake to cause a parcel of land to be designed, constructed and recorded as a subdivision.

170.12.135 Division. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public easement for roadway purposes, shall not be considered a division for the purpose of this chapter.

170.12.140 Easement. "Easement" means a grant by a property owner of the use of land for construction or maintenance of facilities in accordance with the comprehensive plan and the requirements of these regulations.

170.12.150 Engineer. "Engineer" means a registered engineer as defined by the Registration Act of the State of Iowa.

170.12.170 Final Plat. "Final plat" means the map or drawing and necessary legal papers, to engineering accuracy and containing the items specified by these regulations, on which the subdivision plan is presented, in the form which, when approved, will be filed and recorded with the county recorder.

170.12.180 Frontage Street. "Frontage street" means a street contiguous to and generally paralleling an expressway, parkway, or through street. It is designed so as to intercept, collect and distribute traffic desiring to cross, enter, or leave such a highway and to furnish access to property that otherwise would be isolated as a result of the controlled-access feature.

170.12.190 Grading Plan. "Grading plan" means a drawing of a proposed subdivision with plans and specifications for grading, intended to represent the layout, which will be approved for construction by the commission and City Council.

170.12.200 Highway. "Highway" means a trafficway primarily for through traffic, usually on a continuous route, not having access control.

170.12.210 Improvements. "Improvements" mean changes and additions to land necessary to prepare it for building sites, and including street paving and curbing, grading, monuments drainage ways, sewers, fire hydrants, water mains, sidewalks, and other public works and appurtenances.

170.12.220 Intersection. "Intersection" means the area embraced within the prolongation of connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

170.12.230 Lot. "Lot" means a parcel of land abutting on a street whose area, in addition to the parts thereof occupied or hereafter to be occupied by a building, structure, and/or accessory buildings, is sufficient to provide the yards required by the regulations of the zoning ordinance. "Lot" also means a tract of land represented and identified by number or letter designation on an official plat

170.12.240 Maintenance Bond. "Maintenance bond" means a surety bond, cash deposit, or escrow agreement made out to the City in an amount equal to the full cost of the improvements which are required by this title, cost being estimated by the city engineer or City Council, and the surety to the city that the improvements shall be kept in good repair from the time of acceptance by the City of the improvements for such period of time as is specified by this title.

170.12.250 Thoroughfare. "Thoroughfare" means an arterial street with intersections at grade and direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

170.12.260 Minor Street. "Minor Street" means a street used primarily for access to the abutting properties, having a minimum right-of-way width of sixty feet.

170.12.270 Outlet. "Outlet" means a parcel of land within a subdivision which has been included on a preliminary or final plat, but which is not designated as a buildable lot due to insufficient size and/or frontage or peculiar site or topographical problems.

170.12.275 Parcel. "Parcel" means a part of a tract of land.

170.12.280 Performance Bond. "Performance bond" means a surety bond or cash deposit made out to the City in an amount equal to the full cost of the improvements which are

required by this title, and the surety bond or cash deposit being legally sufficient to secure to the city that the improvements will be constructed in accordance with this title.

170.12.290 Plat. "Plat" means a graphic presentation on which the subdivider's plan for the subdivision of land is presented and which is submitted for approval and subsequent action.

170.12.295 Pre-developed Condition. "Pre-developed condition" means those hydraulic and hydrologic site characteristics existing prior to the development being proposed.

170.12.300 Preliminary Plat. "Preliminary plat" means a plat showing all the facts needed to enable the commission to determine whether the proposed layout of the land is satisfactory from the standpoint of public interest.

170.12.310 Replat and Resubdivision. "Replat and resubdivision" means a plat representing land which has previously been included in a recorded plat.

170.12.320 Roadway. "Roadway" means that portion of the street available for vehicular traffic and where curbs are laid, the portion from back to back of curbs.

170.12.330 Shall and may. "Shall" is mandatory and not discretionary; and "may" is permissive.

170.12.335 Standard Specifications. "Standard specifications" shall mean the Iowa Statewide Urban Standard Specifications for Public Improvements and any special provision or modification adopted by the City of Van Meter. Special provisions or modifications adopted by the City of Van Meter shall take precedence over the general requirements of the Iowa Statewide Urban Standard Specifications for Public Improvements.

170.12.340 Street. "Street" means an improved right-of-way dedicated to public use, which serves as a primary access to abutting lands.

170.12.350 Street, Private. "Private street" means any street which is under the jurisdiction of an individual, corporation or trustee, or any street which is privately owned or established.

170.12.360 Subdivider. "Subdivider" means any person, partnership, corporation, trustee, trust or other legal entity commencing proceedings under this title to effect a subdivision of land hereunder.

170.12.370 Subdivision. "Subdivision" means a tract of land divided into three or more lots. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided

or platted into lots or other divisions of land, or if a new street is involved, any division of land.

170.12.375 Tract. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

170.12.380 Used for. "Used for" includes the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

170.16.010-170.16.090

Chapter 170.16 - APPROVAL PROCEDURES

Sections:

- 170.16.010 Preliminary Plat Application and Review Procedure.**
- 170.16.020 Preliminary Plat Approval.**
- 170.16.030 Final Plat Procedure.**
- 170.16.040 Final Plat Application.**
- 170.16.050 Final Plat Approval by Commission.**
- 170.16.060 Final Plat Approval by Council.**
- 170.16.070 Final Plat Approval by Council Time Limit.**
- 170.16.080 Final Plat Approval by Council Recording and Filing.**
- 170.16.090 Plats Outside Corporate Limits.**

170 16.010 Preliminary Plat Application and Review Procedure.

- A. Fifteen (15) copies of the preliminary plat and supplementary material specified shall be submitted to the commission with written application for approval at least fifteen (15) days prior to the meeting at which it is to be considered. These materials shall be retained by the Commission.
- B. The application for approval of the preliminary plat shall be accompanied by a certified check or money order payable to the city in the amount of One Hundred (100) Dollars plus Ten (10) Dollars for each lot in the proposed subdivision.
- C. The City Clerk, upon receipt of the required copies of the preliminary plat, shall file one copy in the records of the city and shall retain one copy for public inspection. The City Clerk shall provide copies of the plat to the city engineer, and such other persons as necessary to review the plat and shall schedule the plat for consideration by the Commission.

- D. The Commission shall examine the plat and the report of the city engineer and such other information as it deems necessary or desirable to ascertain whether the plat conforms to the ordinances of the City and conforms to the comprehensive plan and other duly adopted plans of the City. The Commission shall, within forty-five (45) days of the filing of the application for approval with the City Clerk, forward a report and recommendation regarding the plat to the City Council. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.
- E. The City Council shall examine the plat, the report of the city engineer, the report of the Commission and such other information as it deems necessary or desirable. Upon such examination, the City Council shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the comprehensive plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety and welfare. Following such examination, the City Council may approve, approve subject to conditions or disapprove the plat. If the decision of the City Council is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the City Council, and such decisions shall be provided to the applicant. Action on the application for approval by the City Council shall be taken within ninety (90) days of the filing of the plat with the City Clerk, unless such time period is extended by agreement between the subdivider and the City.

170.16.020 Preliminary Plat Approval.

- A. The approval by the City Council of the preliminary plat shall constitute authorization for the installation of improvements as required by this title, and as shown on the preliminary plat, provided, no such improvement shall be constructed or installed until and unless the plans, profiles, cross-sections and specifications for the construction of such improvement has been submitted to and approved in writing by the city engineer.
- B. If the City Council does not act within the ninety (90) days, the preliminary plat shall be deemed to be approved as is.

- C. Approval of the preliminary plat shall not constitute approval of the final plat.
- D. The approval of the preliminary plat shall be null and void unless a completed application for approval of the final plat is filed with the City Clerk within one (1) year after the date of approval of the preliminary plat. For a preliminary plat that includes a phased improvement, in which more than one final plat will be filed, shall remain valid for a period of two (2) years after the approval of the initial preliminary plat and shall continue to be valid for a period of two (2) years following the application for approval of a final plat in any portion of the preliminary plat. If a period of more than two (2) years elapses after the application for approval of a final plat within the approved preliminary plat, the preliminary plat shall be null and void. The City Council may extend the period of validity of the preliminary plat by not more than two (2) years.
- E. When the preliminary plat has been approved, one copy of the plat shall be returned to the applicant, with street addresses annotated to the lots.

170.17.030 Final Plat Procedure

- A. The final plat shall conform substantially to the preliminary plat as approved and to §§354.6, 354.11, and 355.8, Code of Iowa, as amended. If desired by the subdivider and approved by the Council, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations.
- B. Fifteen (15) copies of the final plat and other exhibits required for approval shall be prepared as specified in Chapter 16.20.030 of this code and shall be submitted to the City Clerk. The plat shall be accompanied by one of the following:

170.17.040 Final Plat Application.

- A. Application for approval of the final plat shall be submitted in writing at least fifteen (15) days prior to the meeting of the Commission at which it is to be considered.
- B. The City Clerk, upon receipt of the required copies of the final plat shall file one (1) copy in the records of the City, shall retain one (1) copy for public inspection. The City Clerk shall provide copies of the plat to the city engineer and such other persons as are necessary to review the plat and shall schedule the plat for review by the City Council.
- C. The City Clerk and the city engineer shall examine the plat as to its compliance with the ordinances and standards of the City and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.

170.16.050 Final Plat Approval by Commission. Within forty-five (45) days after the application for approval of the final plat, the Commission shall approve or disapprove the final plat. If the Commission approves, it shall affix its seal upon the plat together with the certifying signature of its chairman and secretary. If the Commission disapproves, it shall set forth its reasons in its own records and provide the applicant with a copy.

170.16.060 Final Plat Approval by Council.

- A. Upon receipt of the plat and written reports thereof, the City Council shall review the final plat and attachments thereto. If the final plat is found to conform to the ordinances and standards of the City and the comprehensive plan and other adopted plans, all as of the date of approval of the preliminary plat and is found to substantially conform to the preliminary plat, upon payment by the developer to the City for all engineering and legal costs incurred by the City in connection with the approval of the final plat, the City Council shall approve the final plat, and shall cause its approval to be entered on the final plat as required by law.
- B. Prior to review of the final plat the City Council must receive a certificate by the city engineer that all improvements and installations

to the subdivision required for its approval have been made and completed.

- C. If the required improvements have not been completed and the city engineer cannot certify completion of the improvements, the applicant, with the approval of the City Council, may submit a Performance Bond for completion of the required improvements. The Performance Bond shall be with a surety company, licensed to do business in the State of Iowa, shall be in an amount determined by the City to be sufficient to ensure completion of the required improvements and specify the time for completion of the improvements. In lieu of a surety bond, the City Council may approve an irrevocable letter of credit as surety. The Performance Bond or irrevocable letter of credit must be posted and provided to the City before consideration of the final plat by the City Council.

170.16.070 Final Plat--Approval by Council Time Limit. Within sixty (60) days after the application for approval of the final plat, the City Council shall approve or disapprove the final plat, unless such time period is extended by agreement between the subdivider and the City. The period for consideration under this section does not start until the application for approval is complete, including all required final plat attachments. If the action is to disapprove the plat, the reasons therefor shall be set forth in the official records of the City Council and such decision shall be provided to the subdivider.

170.16.080 Final Plat Approval by Council Recording and Filing. Upon approval, the City Council, by resolution, shall approve the final plat and certify the resolution. Upon obtaining the certified resolution of approval by the City Council, the developer shall record the plat with the county recorder and the county auditor within thirty (30) days. If not recorded within this time, the approval shall be null and void. Immediately after recording, the original or a certified copy shall be filed with the office of Clerk/Treasurer.

170.20.010-170.20.040**Chapter 170.20 – PLATS****Sections:**

170.20.010	Plats Required
170.20.020	Preliminary Plat Requirements
170.20.030	Final Plat Requirements
170.20.040	Final Plat Attachments

170.20.010 Plats Required. In order to secure approval of any proposed subdivision, the owner and subdivider shall submit to the City plats and other information as required by this title which shall comply with the requirements for a preliminary plat and the requirements for a final plat.

170.20.020 Preliminary Plat Requirements. The subdivider shall prepare and file with the City Clerk fifteen (15) copies of the preliminary plat drawn to a scale of one (1) inch equals one hundred (100) feet or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one (1) sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "preliminary plat" and shall show, or have attached thereto the following:

- A. Title, scale, north point and date.
- B. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
- C. The name and address of the owner and the name, address and profession of the person preparing the development.
- D. A key map showing the general location of the proposed subdivision in relation to surrounding development.
- E. The names and locations of adjacent subdivision and the names of record owners and location of adjoining parcels of unplatted lands. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundaries shall be attached.

- F. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses and other existing features affecting the plat.
- G. Existing and proposed zoning of the proposed subdivision and adjoining property.
- H. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater.
- I. The legal description of the area being platted.
- J. The boundary of the area being platted and the location of the property in reference to known section lines.
- K. The layout, numbers and approximate dimensions of proposed lots.
- L. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
- M. The proposed names for all streets in the area being platted.
- N. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities and other facilities.
- O. Proposed easements, showing locations, widths, purposes and limitations.
- P. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes, or shown for such purpose in the comprehensive plan or other adopted plans.
- Q. General summary description of any protective covenants or private restrictions to be incorporated in the final plat.

- R. Any other pertinent information as necessary.
- S. The fee, as required by this title.

170.20.030 Final Plat Requirements. The subdivider shall, within one (1) year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Cleric fifteen (15) copies of the final plat and required attachments, as set forth in this title. Except for a final plat for a minor subdivision as set forth in this title, no final plat shall be considered by the City Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth in this title. The final plat shall be drawn at a scale of one (1) inch equals one hundred (100) feet or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") nor smaller than eight and one-half inches by eleven inches (8-1/2 x 11") and shall be of a size acceptable to the county auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat and match lines indicating where other sheets adjoin. The final plat shall be clearly marked "final plat" and shall show the following:

- A. The name of the subdivision.
- B. Name and address of the owner and subdivider.
- C. Scale and a graphic bar scale, north arrow and date on each sheet.
- D. All monuments to be of record, as required by Chapter 354 of the Code of Iowa.
- E. Sufficient survey data to positively describe the bounds of every lot, block, street, easement or other areas shown on the plat, as well as the outer boundaries of the subdivided land.
- F. All distance, bearing, curve and other survey data, as required by Chapter 354 of the Code of Iowa.
- G. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

- H. Street names and clear designation of public alleys.
- I. Lot letters and numbers.
- J. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
- K. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer, easements for ingress and egress and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
- L. All interior excepted parcels, clearly indicated and labeled "not a part of this plat".
- M. Outlots, including identification and purpose.
- N. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
- O. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certificate of the accuracy of the plat by the registered land surveyor who drew the plat.
- P. Lot address numbers as assigned by the City.
- Q. Notes and restrictions required by the City.

170.20.040 Final Plat Attachments. The following shall be attached to and accompany any final plat:

- A. All documents required under current Iowa Code § 354.11, as amended or modified from time to time.
- B. The encumbrance bond, if any.
- C. A statement of restrictions of all types that run with the land.

- D. Where the improvements have been installed; the maintenance bond required by this title.
- E. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the city attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance shall be required.
- F. A resolution and certificate for approval by the City Council and for signatures of the Mayor.
- G. Warranty deeds for all lots to be deeded to the City for street right-of-way or other purposes.
- H. The applicable fee, if any.

170.28.010-170.28.090

Chapter 170.28 - DESIGN STANDARDS

Sections:

- 170.28.010 Purpose and Intent**
- 170.28.020 Streets**
- 170.28.030 Blocks**
- 170.28.040 Required Improvements**
- 170.28.050 Easements**
- 170.28.060 Lots**
- 170.28.070 Large Lot Subdivisions**
- 170.28.080 Stormwater Runoff**
- 170.28.090 Floodplain and Areas Particularly Susceptible to Flooding**

170.28.010 Purpose and Intent. The standards of design contained in this chapter are intended only as minimum requirements, and the subdivider should use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood. All subdivisions shall conform to the Design Standards and Standard Specifications for Public Improvements and adopted by the City and to the Comprehensive Plan as approved and adopted.

170.28.020 Streets. Street design standards shall be as set forth in this section.

- A. General.
1. The arrangement, character, extent, width, grade and location of all streets shall conform to the comprehensive plan.
 2. All streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their relation to the proposed uses of the land to be served by such streets.
 3. Where such is not shown on the comprehensive plan, the arrangement of streets in a subdivision shall either:
 - a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - b) 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.
 4. Where a subdivision abuts or contains an existing or proposed highway, primary thoroughfare, railroad or other disadvantageous use, the commission may impose requirements concerning streets, access drives, service drive, reverse frontage lots, or any other such requirements as may be necessary to preserve the character of the neighborhood.
- B. Access. Reserve strips controlling access to streets or alleys shall be prohibited.
- C. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets, constructed or recorded, in adjoining property at equal or greater width and in similar alignment, unless variations are recommended by the Commission.
- D. Cul-de-sac. Cul-de-sac type streets shall be no longer than six hundred (600) feet and shall be provided at the closed end with a turnaround of at least the minimum radius required by the Design Standards.
- E. Grade. Streets shall be completed to grades which have been officially approved by the City Council.
- F. Half Streets. Dedication of half streets is not allowed.

- G. Intersections. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) nor more than one hundred twenty (120) degrees. Intersection of more than two (2) streets at a point shall be prohibited.
- H. Jogs. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
- I. Minor Streets. Minor streets shall be laid out so that their use by through traffic will be discouraged.
- J. Street Names. All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. Streets that are in obvious alignment with existing streets shall bear the name of the existing streets. The final plat shall show the proposed names of new streets, and these names shall not duplicate or sound similar to existing street names. All street names are subject to approval by the City.
- K. Street Geometrics. The geometrics of all streets shall conform with the requirements of the Design Standards adopted by the City unless deviations from the Design Standards are approved by the City Council on recommendation of the city engineer.
- L. Street and Right-of-Way Widths. The minimum right-of-way width and street pavement width shall be as follows:

Street Classification	Right-of-Way Width (feet)	Pavement Width (feet)
Minor	50	26
Local Collector	60	31
Collector	70	37
Arterial	100	51

- M. Street Construction. All streets shall be constructed of portland cement concrete pavement in accordance with the Design Standards adopted by the City. Upon application and recommendation of the city engineer, the City Council may approve street construction of portland cement

concrete curb and gutter sections with full depth hot mix asphalt pavement.

- N. Alleys. Unless approved by the City, alleys shall not be allowed.

170.28.030 Blocks.

- A. The lengths, widths and shapes 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 as to lot sizes and dimensions.
 3. Needs for convenient access, circulation, control and safety of street traffic.
 4. Limitations and opportunities of topography.
- B. Block lengths shall not exceed six hundred sixty (660) feet, or be less than three hundred (300) feet.

170.28.040 Required Improvements. Required improvements are as follows:

- A. General. The subdivider shall install and construct all improvements required by this chapter. The subdivider shall submit three (3) sets of the plans and specifications for all public improvements to be reviewed by the city engineer and approved by the City Council prior to start of construction.. All required improvements shall be installed and constructed in accordance with the "Standard Specifications" on file in the office of the City Clerk, unless otherwise approved by the city engineer. Inspection shall be provided by the City at the subdivider's expense as deemed necessary to assure the quality workmanship on all portions of the construction to be dedicated to the City. Said inspections costs which are a part of the review and inspection costs provided for, and shall be paid for by the subdivider before final approval will be given. The subdivider shall provide a minimum twenty-four (24) hours notice to the City prior to commencement of construction work so the City can make arrangements for an inspector. At the completion of construction, all improvements required by these regulations shall be reviewed and approved by the City Council.
- B. Grades. All streets, alleys and sidewalks within the platted area which are dedicated for public use shall be brought to the grade approved by

the City Council after receiving the report and recommendations of the city engineer.

- C. Paving. Concrete paving with curbs shall be installed on all roadways in the plat being dedicated for public use and shall be constructed of portland cement concrete in accordance with designs and specifications approved by the City Council and at grades established by the city engineer.
- D. Sidewalks. Sidewalks shall be constructed on both sides of all streets being dedicated for public use. Sidewalks shall be a minimum of four feet (4') in width and shall be constructed of portland cement concrete in accordance with designs and specifications approved by the City Council and at grades established by the city engineer.
- E. Water and Sewers. Water mains, sanitary sewer lines, and storm sewers and their appurtenances shall be constructed and installed in accordance with the plans and specifications adopted by the City Council. Water and sewer lines shall be made accessible to each lot.
- F. Storm Sewer. A suitable storm sewer for sump pump drainage shall be available to all lots within a subdivision.
- G. Extension of Services to Property Line. The subdivider shall extend services for water, sewer, and sump pump discharge to the lot lines for each lot within a subdivision. The locations of the services must be clearly marked and a record of the service locations provided to the City by the subdivider.

16.28.050 Easements. Easements shall be designated for the location of utilities and drainage as follows:

- A. Sanitary sewer easements shall not be less than twenty (20) feet wide for sanitary sewers not greater than fifteen (15) feet deep. For sanitary sewers greater than fifteen (15) feet deep the minimum width of the easement shall be established by the city engineer.
- B. Water main: ten (10) feet.

- C. Storm sewer: easement shall not be less than fifteen (15) feet in width. For storm sewers, twenty-four (24) inch diameter and larger the width of the easement shall be determined by the city engineer.
- D. Public utility easements : Easements shall be provided for utilities and shall be provided on the front and rear of all lot lines and shall be a minimum of five (5) feet wide on the rear lot line and a minimum of ten (10) feet adjacent to the front lot line.
- E. Overland flowage easements shall be provided at all locations where overland flow drainage shall traverse a lot, outlot or other portion of the plat. Width of the overland flowage easement shall be at least as wide as the anticipated overland flow during a 100-year rainfall event.

170.28.060 Lots.

- A. Size, width, depth, shape. and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Lot dimensions shall conform to the requirements of the City's zoning ordinance; and within the corporate limits of the city, all lots shall abut on a dedicated and improved street.
- C. Corner lots for residential use shall have extra width to permit appropriate building setback from both streets as specified in the zoning ordinance.
- D. Side lot lines shall be at right angles or radial to street lines, except where a variation of this rule will provide an improved street and lot layout.
- E. Where unusual soil conditions or other physical factors exist which may impair the health and safety of the residents of the neighborhood in which a subdivision may be located, the commission may increase lot area requirements as may be necessary.
- F. Excessive depth in relation to width shall be avoided, a proportion of two and one-half in depth to one (2-1/2:1) in width shall normally be considered as a desirable maximum for lot widths of sixty-six (66) feet or more.

- G. Double frontage and reversed frontage lots shall be avoided except when necessary to provide separation of residential development from heavily traveled thoroughfare, or to overcome specific disadvantages of topography or orientation.

170.28.070 Large Lot Subdivisions. Whenever the area is divided into lots larger than ordinarily used in the area for building purposes, and there is reason to believe that such lots will eventually be resubdivided 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 arrangement of smaller lots. Easements or deeds providing for the present or future opening and extension of such streets may, at the discretion of the council, be made a condition of the approval of the plat.

170.28.080 Stormwater Runoff.

- A. Development of property without disposition of stormwater runoff is prohibited. The owner of any parcel(s) who shall grade, fill, construct on or otherwise alter the existing storm water runoff rates, velocities, volumes or drainage patterns shall be responsible for damages, inconveniences or distress resulting from such activities.
- B. No development shall cause downstream property owners, water courses, channels, or conduits to receive stormwater runoff from the proposed development site at a higher peak flow rate, at higher volume, or at higher velocities than would have resulted from the same storm event occurring over the site of the proposed development with the land in its natural, pre-developed condition, unless sufficient capacity to convey the water through downstream property owners, water courses, channels or conduits to receive stormwater runoff from the proposed development site is demonstrated.
- C. The City shall have no obligation to review, check, or otherwise verify the certified engineering calculations, method of design, or stormwater detention facility plans and as-built drawings required to be submitted. Acceptance of stormwater detention plans, calculations or as-built drawings and issuance or approval of any permit or plat shall be interpreted as satisfying the requirement that such plans, calculations and

documents be submitted to the City. In no instance shall such permit issuance, plat approval, or acceptance of such documents by the City be construed as approval of the developers or the developer's engineer's design methods, design calculations, detention facility plan, as-built drawings, approval of detention construction, or concurrence by the City of Van Meter, Iowa, that all design criteria has been satisfied. The developer and the developer's engineer shall be fully responsible for the design and construction of stormwater detention facilities and shall indemnify and hold the City of Van Meter, Iowa, harmless from any claims, demands or causes of action based upon a violation of the provisions of this section.

170.08.090 Floodplain and Areas Particularly Susceptible to Flooding. If a subdivision or a portion thereof lies within a flood plain area, as defined by federal or Iowa statutes or regulations promulgated thereunder, or includes or may include area particularly susceptible to flooding, the City may in its sole discretion, impose reasonable conditions upon approval of the preliminary and final plat to protect the health, safety, and welfare of property owners, adjacent property owners, and the public from flooding or potential flooding.

170.32 PARK AND RECREATIONAL AREAS.

170.32.010 Purpose and Intent. All residential developments should be designed so that adequate open spaces and sites for public uses may be properly located and preserved as the community develops. In order that the cost of providing parks, playgrounds and recreational facilities and sites necessary to serve the additional families brought into the community by the subdivision development may be most equitably apportioned on the basis of the additional need created by the individual subdivision development, the following provisions shall apply to all future residential developments or subdivisions or planned unit developments greater than one-half (1/2) acre in size within the City.

170.32.020 Public Areas Dedicated. Where it is determined by the City Council that public service areas are necessary and required, the subdivider or developer shall be required to dedicate or reserve such an area without cost to the City.

170.32.030 Recreational Areas and Open Space. Within the corporate limits of the City where it is determined by the Council that open space and recreational areas are necessary and required, and where feasible and compatible with the Comprehensive Plan of the community, the subdivider or developer shall provide and dedicate to the public adequate land to provide for said public service areas, open space and recreational needs of the subdivision or development. Provided, however, said open space and recreational facilities may be reserved and held by private persons or home owners' associations or like entities under a Planned

Unit Development (PUD) if same satisfies the requirements of this chapter. Provided further, however, should open space and recreational facilities be required of a PUD in another ordinance, law or statute with minimum areas which are greater than those provided herein, then said other ordinance, law or statute shall govern.

- A. **Open Space Reserved.** Where land or property is to be reserved and ownership of same retained or held in the name of a private person or association, same shall be permanently reserved for public use, as directed by the Council, and held for the purpose of open space and recreational facilities and its purpose or shall not be altered.
- B. **Area Required.** The amount of land shall be determined by first calculating the lot area per residential unit for the proposed development, as shown on the preliminary plat or site plan, then requiring dedication or reservation as provided below:

Residential Uses:	Percentage of
25,000 square feet to 40,000 square feet or greater	3%

- C. **Fee in Lieu of Dedication.** Where dedication of land is not compatible with the general subdivision plan of the developer, the developer may request the City to accept a cash payment in lieu of the dedication of such land. In this event, the developer may pay to the City a cash payment as hereinafter determined, which shall be placed in a special fund by the City.
- D. **Use and Location.** Such fee shall be used exclusively for immediate or future site acquisition and development and shall be used only for the purpose of providing public service areas, open space lands and other recreational facilities to serve the subdivision or development for which received. The location of the land shall bear reasonable relationship to the use of the open space lands and other recreational facilities by future inhabitants of the subdivision or development for which received as well as those inhabitants of the community.
- E. **Fee Determined.** In all cases where the Council, upon request by the developer, shall direct and determine that cash is to be deposited, or that a combination of cash and land is to be deposited dedicated or reserved for public service areas, park playground or recreational purposes or a combination of uses, the fee shall be set at 1% (one percent) of the fair market value of each lot, payable at the time of plat approval or as mutually agreed by the Council and the developer. "Fair market value" shall be determined as of the time of filing the final plat in accordance with the following: the fair market value as determined by the Council based on

current appraisals; or, if the subdivider objects to such amount of evaluation, he or she may, at his or her own expense, obtain an appraisal of property by a qualified real estate appraiser approved by the City, which appraisal may be accepted by the Council if found reasonable; or the City and subdivider may agree as to the fair market value.

- F. Fund Established. All funds so levied, assessed, and collected by the City shall be deposited in a special fund to be known and designated as "Special Fund for the Acquisition and Development of Public Service Areas, Open Space and Recreational Facilities" (Special Fund). Said funds so levied and collected shall be used for such purposes at such places and in such manner as shall be approved, ordered and directed by the Parks and Recreation Board, which shall be consistent with this chapter. Authorization for creation of said fund is hereby granted. Any and all interest accumulated upon such funds shall be added to the special fund and be used only for acquisition and development of open space and recreational facilities.
- G. Procedure. The procedure for determining whether the subdivider or developer is to dedicate or reserve land, pay a fee, or both, shall be as follows:
1. Subdivider-Developer. At the time of filing a preliminary plat or site plan with the Commission, the owner or developer of the property shall, as a part of such filing, indicate whether he or she desires to dedicate or reserve property for public service areas open space and recreational purposes, or to pay a fee in lieu thereof.
 2. Cooperation with Parks and Recreation Board. When the preliminary plat is received by the City, the Clerk shall forward a copy to the Parks and Recreation Director. The Parks and Recreation Board may review the same and make recommendations and suggestions thereon with regard to the placement, size, design, and location of said proposed public service areas, open space or recreational area, cash in lieu of dedication or reservation of land, or a combination of both, within the terms and tenor of this chapter. Any recommendations shall be made to the Commission within thirty (30) days after receipt of a copy of said preliminary plat by the Director. Failure to make recommendations and suggestions within the thirty (30) days aforementioned shall in no way serve to delay, postpone, or reject the preliminary plat or site plan, and the requirement that the Parks and Recreation Board make such recommendations and suggestions shall thereby be waived.
 3. Action of City. At the time the preliminary plat or site plan is approved by the Council, the Council shall determine, as a part of such approval, whether to require a dedication or reservation of land within the subdivision or development, payment of a fee in lieu thereof, or a combination of both; provided however, that the City shall determine which land shall apply to the dedication or reservation and the requirements contained herein
- H. Prerequisites for Approval of Final Plat or Site Plan. Where a dedication is required, it shall be accomplished by providing the City with a properly executed warranty deed dedicating the required land to the City without cost to the City. Where fees in lieu of dedication are required, the same shall be deposited with the Clerk prior to the approval of the final plat or site plan.

- I Determination. The Council shall determine whether dedication, reservation or cash in lieu thereof or a combination of cash, dedication and reservation shall be required. In making this decision, the City Council shall consider the following:
1. Recreational element of the City's Comprehensive Plan.
 2. Topographic and geologic conditions and access and location of land in subdivision or development available for dedication.
 3. Size and shape of the subdivision or development and land available for dedication.
 4. The relation of the subdivision or development to the Comprehensive Plan, particularly as the Comprehensive Plan map may show proposed public service areas, open space and recreational areas.
 5. The character and recreational needs of the neighborhood in which the subdivision or development is located.
 6. The unsuitability in the subdivision or development for open space and recreational purposes by reason of location, access, greater cost of development and maintenance.
 7. The possibility that land immediately adjoining the subdivision or development will serve in whole or in part the public service areas, open space and recreational needs of such subdivision or development.
 8. Recommendations and suggestions of the Parks and Recreation Board and the Planning and Zoning Commission.
 9. Any and all other information relevant to a proper determination.

The determination of the Council as to whether land shall be dedicated or reserved or a fee shall be charged, or a combination thereof, shall be final and conclusive.

- J Development of Dedicated Area. It shall be the duty of the Parks and Recreation Board of the City to develop properly and to maintain the dedicated area for open space and recreational facilities. The owner who dedicated this land shall in no way be responsible for its development, maintenance, or liability thereon, except that the owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use or value of the dedicated property. Where the owner is allowed to retain the land required for open space and recreational purposes and facilities in private ownership, it shall be the owner's responsibility to properly develop and maintain such area.

170.36.010-170.36.080

Chapter 170.36 - IMPROVEMENTS

Sections:

- 170.36.010 Generally.**
- 170.36.020 Maintenance - Required.**
- 170.36.030 Maintenance - Bond.**
- 170.36.040 Inspection.**
- 170.36.050 Performance Bond or Letter of Credit - Release or Reduction.**
- 170.36.060 Failure to Complete Improvements.**
- 170.36.070 Monumentation.**
- 170.36.080 Utilities and Streets - Standards.**

170.367.010 Generally. The subdivider shall install and construct all improvements required by this title. All required improvements shall be in accordance with approved Standard Specifications and under supervision of the City Council.

170.367.020 Maintenance Required. The applicant shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required, until acceptance of the improvements by the City. If there are any occupancy permits on a street not dedicated to the City, the City may, on twelve (12) hours notice, plow the street or effect emergency repairs and charge same to applicant.

170.367.030 Maintenance Bond. The applicant shall be required to file a maintenance bond with the City Council, prior to approval of final plat and dedication of improvements to the public, in an amount considered adequate by the city engineer and in a form satisfactory to the city attorney, in order to assure the satisfactory condition of the required improvements for a period of time in accordance with the schedule set forth in this section. The time shall run from the date of their acceptance by the City Council and dedication of same to the City.

Type of	Bonding
Maintenance Bond	Period
Pavements Sanitary	4 years
Sewer Storm Sewer	4 years
Sidewalk	2 years

170.36.040 Inspection. The City Council shall provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay to the City the cost of the inspection fees which shall include inspection of water mains, sewer, streets, or any other required improvements; and the subdivision plat shall not be signed by the mayor unless such fee has been paid at the time of application. If the city engineer finds upon the inspection that any of the required improvements have not been constructed in accordance with the approved construction standards and specifications, the applicant shall be responsible for completing the improvements according to such standards and specifications. Wherever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements in accordance with the standards and specifications approved by the City Council.

170.36.050 Performance Bond or Letter of Credit Release or Reduction.

- A. Certificate of Satisfactory Completion. The City shall not accept dedication of required improvements, nor release nor reduce a performance bond or letter of credit, until the city engineer has submitted a certificate stating that all required improvements have been satisfactorily completed; and until the applicant's engineer or surveyor has certified to the city engineer, through submission of detailed as-built survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the plan and zoning commission, City Council or city engineer, that the layout of the line and grade of all public improvement is in accordance with construction plan for the subdivision; and that a certification has been furnished to and approved by the city attorney indicating that the improvements have been completed, are ready for dedication to the local government, and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the City Council shall thereafter accept the improvements for dedication in accordance with the established procedure.
- B. Sidewalks shall be constructed on both sides of all streets dedicated to public use, except a sidewalk need not be provided on street right-of-way abutting nonresidential or noncommercial tracts of land, such as parks, large industrial sites, water courses, cemeteries, etc., unless required by the City Council.
- C. The sidewalks shall have a minimum width of four (4) feet, and have a minimum thickness of four (4) inches, and shall be constructed of

portland cement concrete in accordance with designs and specifications approved by the City Council.

- D. Street trees shall not be planted in the public right-of-way.
- E. Topsoil shall not be removed from residential lots or used as spoil.
- F. Fire hydrants shall be installed in accordance with specifications approved by the City Council.
- G. Street lights shall be installed in accordance with designs and specifications approved by the City Council.

170.44.010-170.44.030

**Chapter 170.44 - SUBDIVISIONS WITHIN TWO MILES ADJACENT
TO THE CORPORATE LIMITS**

Sections:

- 170.44.010 Plats Outside Corporate Limits.**
- 170.44.020 Petition.**
- 170.44.030 Waiver of Plats Outside Corporate Limits.**
- 170.44.010 Plats Outside Corporate Limits.**

- A. Requirements and procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as the requirements and procedure for approval of preliminary and final plats within the corporate limits except that the application for approval of the final plat shall not be considered by the council until it has been submitted and approved by the Dallas County Board of Supervisors.
- B. In reviewing a proposed subdivision of land within two (2) miles of the corporate limits, the City Council, upon recommendation of the Commission, may vary or modify the requirements for a subdivision within the corporate limits so that the subdivider is allowed to develop his property in a reasonable manner, provided, that such variance or modification will not have the effect of nullifying the intent and purpose of this title for the city or of interfering with carrying out the comprehensive plan. Upon any request to relax the

requirements contained in these regulations, consideration shall be given to the following:

- 1 Conformance of the proposed street system in the subdivision to the comprehensive plan, location of the proposed subdivision in relation to sites which the comprehensive plan proposes for public or semi-public use and whether land should be reserved for such uses including, but not limited to, schools, parks, playgrounds, public buildings, public utilities, airports, etc.

170.48.010-170.48.020

Chapter 170.48 - EXCEPTIONS

Sections:

- 170.48.010** **Generally.**
- 170.48.020** **Petition.**

170.48.010 Generally. Whenever the tract to be subdivided is of such unusual topography, size, or shape that the strict application of the requirements contained in these regulations would result in substantial non-self-inflicted hardships, the City Council, upon recommendation of the commission, may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner; provided, that such variance or modification will not have the effect of nullifying the intent and purpose of this title for the city or of interfering with carrying out the comprehensive plan. In no case shall any variation or modification be more than a minimum easing of the requirements, and in no instance shall it conflict with any zoning ordinance and map, or reduce the traffic capacity of any street below that shown on the comprehensive plan.

170.48.020 Petition. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the considerations of the planning commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

170.56.010

Chapter 170.56 - PENALTIES

Sections:

- 170.56.010** **Violation Penalty.**

170.56.010 Violation Penalty. Whoever being the owner or agent of the owner of any land located within or adjacent to the city, knowingly or with intent to defraud, transfers or sells, by reference to or exhibition of, or by other use of a plat of subdivision of such land before such plat has been approved by the commission, shall forfeit and pay the penalty of not more than one hundred (100) dollars for each lot so transferred or sold, or agreed or negotiated to be sold, and a description by metes and bounds shall not exempt the transaction from such penalties.

CHAPTER 171

ARCHITECTURAL DESIGN AND TREATMENT OF BUILDINGS

171.01 Architectural Design and Treatment of Buildings

171.02 Definitions

171.01 ARCHITECTURAL DESIGN AND TREATMENT OF BUILDINGS. In order to maintain character, continuity and enhance physical appearance, the following standards shall apply to zoning districts C-0 (non-residential uses), C-1, C-2, I-1 and 1-2 unless noted otherwise in this Chapter or Chapter 165. In the event that any of the standards below conflict with other standards, regulations or requirements of Federal, State, County laws or regulations, or as outlined elsewhere within this City Code, the more restrictive regulation shall apply.

- (a) **Facades.** All principal and accessory buildings must be constructed so that the Primary Building Face has as its covering natural materials, rather than simulated or synthetic materials. Natural materials include, but are not limited to, stone, stone facing, brick, wood, stucco, clay tile, ceramic tile, quarry tile, terra cotta, and cut stone. Rough-faced concrete block may be used for an exterior surface where concrete block is the only option because of existing structural conditions or requirements. Materials to be excluded include, but are not limited to, plain concrete block, plain precast, fiberglass, simulated brick and stone, vinyl siding, metal siding and masonite panels. If the underlying building is constructed using either metal or concrete form walls, the metal or concrete portion of the external primary face of building must be completely covered with natural materials.
- (b) **Mill Street Gateway Corridor District.** In addition to the requirements set forth in 171.01(a) above, in the "Mill Street Gateway Corridor District," all principal and accessory buildings must be constructed so that every building face shall have as its covering natural materials, rather than simulated or synthetic materials.
- (c) **Exclusions.** This ordinance excludes the Primary Building Face that contains manufactured window frames, window glass, door frames and doors.
- (d) **Awnings.** Awnings are allowed on any building consistent with other city codes and requirements. Any awning extending over a public sidewalk or passageway shall require a building permit with a condition of issuance being the Zoning Administrator's determination that the proposed awning complies with the appropriate snow loading standard determined to be appropriate by said administrator.

171.02 DEFINITIONS.

Primary Building Face: The side or sides of the building fronting on a street right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

CHAPTER 172

CONVERSION TO MEET BUILDING CODES

172.01
172.02
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172.04

172.05
172.06
172.07

172.01. It is the intent of the City Council of the City of Van Meter, by this Ordinance, to provide for the health, safety and welfare of its citizens and to provide for the orderly development of the City by establishing standards for property which is to be subjected to residential horizontal property regimes (condominiums) and multiple housing cooperatives. It is the intent of the City Council to assure that all property to be used for residential purposes must at the time a horizontal property regime or multiple housing cooperative is established meet current building code standards and requirements. It is the intent of the City Council in regard to the conversion of structures to horizontal property regimes (condominiums) or the conversion of structures to multiple housing cooperatives that such change should provide the residents living in such structures adequate protection by meeting the current health, safety and welfare standards of the City. This Ordinance is in part enacted to assure residents that such standards herein provided will be maintained. This Ordinance is to be liberally construed to meet the purposes and intent of the City Council as herein stated.

172.02.

- A. After February 21, 2011, an existing structure shall not be converted to a horizontal property regime unless the converted structure meets building code requirements in effect on the date of conversion. After February 21, 2011, an existing structure shall not be converted to a multiple housing cooperative unless the converted structure meets building code requirements in effect on the date of conversion.
- B. At least 60 days prior to filing a declaration of horizontal property regime as provided in Iowa Code chapter 499B or articles of incorporation for a multiple housing cooperative as provided in Iowa Code chapter 499A which converts an existing structure within the City of Van Meter, the owner shall file a copy of the declaration of the horizontal property regime or the articles of incorporation of the multiple housing cooperative with the City of Van Meter Building Official to enable the City to establish that the converted structure meets appropriate building code requirements.

172.03. Any person or entity seeking to establish a horizontal property regime (condominiums) or multiple housing cooperative for residential purposes, including a person or entity seeking to convert an existing structure to condominiums or a multiple housing cooperative by establishing a horizontal property regime pursuant to Iowa Code chapter 499B or by establishing a multiple housing cooperative pursuant to Iowa Code chapter 499A shall establish and document compliance with all building code requirements of the City applicable upon the date the City receives the declaration

of the horizontal property regime or articles of incorporation of the multiple housing cooperative. Such compliance shall include documentation of the following:

- A. That all materials, manner and means of construction in the building proposed meet current building codes for new residential construction including current fire, building, plumbing, electrical and mechanical codes.
- B. That all plumbing in the building proposed meets current standards for water conservation including low flow toilets and similar devices.
- C. That the building proposed have fire sprinklers and all other life safety systems required for new construction.
- D. That the building proposed meet all state and federal requirements for handicapped accessibility that would be required of new construction.
- E. That the building proposed meet all state energy efficiency standards that would be required for new construction.
- F. That the building proposed meet any and all other requirements of the City of Van Meter building code and subdivision code.

172.04. Any person or entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Iowa Code chapter 499B or seeking to convert an existing structure to a multiple housing cooperative pursuant to Iowa Code chapter 499A shall comply with all current provisions for on-site parking and storm water management that would be required for new construction.

172.05. Any person or entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Iowa Code chapter section 499B.3 or seeking to convert an existing structure to a multiple housing cooperative pursuant to Iowa Code chapter 499A shall at least 60 days before filing any declaration or article of incorporation submit to the City Clerk and the Public Works Director a written analysis by a licensed professional engineer(s) or other appropriate licensed professional, based upon personal inspection of the building sought to be converted. The written analysis shall certify that the building meets all current city building codes that would be required for new construction. The certification shall separately itemize and describe in a manner sufficient to show the factual basis of any certification that the fire, life-safety, structural, plumbing, electrical and mechanical systems meet current city standards. The certification shall further certify compliance with current on-site parking and storm water management requirements and separately certify the building meets current standards for materials and that acceptable means and methods of construction were used that would be required for new construction. Appropriate city staff will review the certification and report to the City Building Official whether said certification is sufficient to meet the requirements of this Ordinance.

172.06. Any person or entity seeking to convert an existing structure to condominiums by establishing a horizontal property regime pursuant to Iowa Code chapter 499B or seeking to convert an existing structure to a multiple housing cooperative pursuant to

Iowa Code chapter 499A shall comply with all requirements of the Site Plan Ordinance of the Van Meter City Code prior to conversion in the same manner as an applicant for new construction including, but not limited to, filing a site plan for review which shall show compliance with all set back, parking, open space and all other requirements that would be required for new construction.

172.07. No conversion of property to a horizontal property regime under Iowa Code chapter 499B and no conversion of property to a multiple housing cooperative under Iowa Code chapter 499A shall be complete nor shall a declaration or articles of incorporation be filed until there has been full compliance with this Ordinance. Upon showing of full compliance with this Ordinance, the City Building Official shall by written notice so inform the county recorder of the county in which any property subject to this Ordinance is located and state in said written notice that the property meets the requirements of the Iowa Crop.

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CITY OF VAN METER, IOWA**

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