CODE OF ORDINANCES

OF THE

CITY OF

INDIANOLA, IOWA

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CODE OF ORDINANCES
OF THE
CITY OF INDIANOLA, IOWA, 2000

Adopted January 16, 2001, by Ordinance No. 1190

SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
May-01	Ch. 137	1191	3-5-01	Sewer Easement Vacation
	Ch. 165	1192	3-5-01	R-3 Special Exception
	Ch. 165	1193	4-16-01	Zoning Map
Aug.-01	A-1 Permitted Uses	1194	5-7-01	Bed and Breakfast
	157.02, 157.04 & 157.05	1195	5-7-01	Electrical Code
	156.02 & 156.03	1196	5-7-01	Building Code
	Ch. 160	1197	5-7-01	Fire Code
	158.02, 158.03 & 158.07	1198	5-7-01	Plumbing Code
	159.01 & 159.02	1199	5-7-01	Mechanical Code
	129.04	1200	5-7-01	Mechanical Contractor License Fee
	128.03	1201	5-7-01	Electrical Contractor License Fee
	96.02	1202	5-7-01	Sewer Permit Fees
	155.14 & 155.28 (7)	1203	5-7-01	Sign Permit Fees
	165.33	1204	5-7-01	Zoning Appeal Fee
	135.14 (2)	1205	5-7-01	Curb Cut Fee
	130.04	1206	5-7-01	Plumbing Contractor License Fee
Nov.-01	Ch. 165	1207	6-4-01	Zoning Map
	Ch. 165	1208	8-6-01	Zoning Map
	Ch. 165	1210	8-20-01	Zoning Map
	100.08	1211	9-17-01	Plainview North Trunk Sewer
	100.07	1212	9-17-01	Plainview South Trunk Sewer
	Appendix - Traffic Control	1213	9-17-01	Stop and Yield
	Ch. 114	1214	10-1-01	Relocation of Utility Facilities
	19.01, 19.02, 20.01	1215	10-1-01	Treasurer & Attorney Appointment
	Appendix - Traffic Control	1216	10-1-01	Persons with Disabilities Parking
	9.01	1217	10-1-01	Downtown Urban Renewal Area
	9.01	1218	10-1-01	Hillcrest URA Amendment 2
Feb.-02	106.08 (7)	1219	12-17-01	Unit Based Pricing
	100.09	1220	1-22-02	North Jefferson Way Trunk Sewer
	Appendix – Traffic Control	1221	2-19-02	No Parking Zones
May-02	3.01	1209	8-6-01	Wards
	100.08	1222	3-18-02	Plainview North Trunk Sewer
	100.07	1223	3-18-02	Plainview South Trunk Sewer
Aug.-02	Ord. 1208	1224	4-2-02	R-5 Plan
	100.10	1225	5-20-02	West Euclid Ave. Sewer District
	99.05	1226	5-20-02	Sewer User Charges
	100.09	1227	6-3-02	Benefited District Charges

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Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
	18.01, 19.01, 20.01	1228	6-17-02	Clerk, Treasurer, Attorney Appt.
Nov.-02	Ch. 137	1229	8-5-02	Vacation
	Ch. 137	1230	8-5-02	Vacation
	120.07	1231	8-19-02	Consumption on Premises
	Appendix – Traffic Code	1232	9-16-02	No Parking
	Ch. 165	1233	9-16-02	Zoning Map
	Appendix – Traffic Code	1234	9-16-02	No Parking
	Appendix – Traffic Code	1235	9-16-02	Stop Intersection
	Ch. 165	1236	10-7-02	Zoning Map
	Ch. 137	1237	10-7-02	Vacation
Feb.-03	Appendix - Traffic Control	1238	10-21-02	Stop and Yield
	170.02, 170.04(19), 170.07, 170.35, 170.36, 170.38(1)	1239	11-18-02	Subdivision
	Appendix - Traffic Control	1240	12-2-02	One Way Alley
	155.04(8), 155.24(9), 155.28 (1) (7), 155.31(4)(B)	1241	12-2-02	Signs
	Ch 165	1242	12-2-02	M-2 Permitted Uses
May-03	100.11	1243	1-6-03	Benefited Sewer District
	Ch. 7	1244	3-17-03	Industrial Property Tax Exemption
	Appendix – Traffic Code	1245	3-17-03	No Parking
	Appendix – Traffic Code	1246	4-21-03	No Parking
	8.01	1247	4-21-03	Hotel/Motel Tax
	155.09, 155.10 (8) & (9)	1248	5-5-03	Signs
	Appendix – Traffic Code	1249	5-5-03	No Parking
Aug-03	Ord. 1208	1250	5-19-03	R-5 Plan
	Ch. 165	1251	6-16-03	Zoning Map
	155.31 (5), 165.04, 165.09, 165.11 (7)	1252	6-16-03	C-l Zoning Classification
	Ch. 165	1253	7-7-03	Zoning Map
	Appendix – Traffic Code	1254	7-7-03	No Parking Zone
	Ch. 165	1255	7-7-03	R-1 Side Yard
	Ch. 165	1256	7-21-03	Zoning Map
	Appendix – Traffic Code	1257	8-4-03	35 MPH Speed Zone
	Ch. 165	1258	8-4-03	M-2 Permitted Uses
	106.09 (1)	1259	8-18-03	Recycling Fee
	70.03	1260	8-18-03	Parking Violation Alternate
	170.36	1261	8-18-03	Subdivision Fees
	165.33, 165.39	1262	8-18-03	Zoning Fees
Nov-03		1263	9-2-03	R-5 Planned Residence District Plan
	Ch. 165	1264	9-15-03	Zoning Map
	Ch. 137	1265	10-6-03	Vacation
	Ch. 165	1266	10-6-03	C-3 Uses
	Appendix – Traffic Code	1267	10-6-03	No Parking Zones
Feb-04	Ch. 137	1268	10-20-03	Vacation
		1269	11-17-03	R-5 Planned Residence District Plan
	Ch. 165	1270	12-1-03	Zoning Map
	Appendix – Traffic Code	1271	12-1-03	No Parking Zones
	165.11(6)	1272	12-1-03	Annexation
	Ch. 165	1273	12-15-03	Zoning Map
	Ch. 165	1274	1-5-04	Zoning Map

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May-04	Ch. 165	1275	2-17-04	R-3 Off-street Parking
	Ch. 165	1276	2-17-04	R-5 Changes and Modifications
	166.11(3)(A)	1277	2-17-04	Site Plan Design Standards
	Appendix – Traffic Code	1278	2-17-04	No Parking Zones
	Ch. 138	1279	4-5-04	Street Grades
	Ch. 7	1280	4-5-04	Industrial Property Tax Exemption
	170.33 & 170.34	1281	4-5-04	Subdivision Regulations
		1282	5-3-04	R-5 Planned Residence District Plan
Aug-04	Ch. 165	1283	5-17-04	Zoning Map
	Appendix – Traffic Code	1284	5-17-04	Stop Intersections
		1285	7-6-04	R-5 Planned Residence District Plan
	Ch. 7	1286	6-7-04	Industrial Property Tax Exemption
	Ch. 137	1287	6-7-04	Vacation
	69.10(3&4)	1288	6-7-04	Snow Emergency Parking
	99.05	1289	6-7-04	Sewer User Charges
		1290	7-6-04	R-5 Planned Residence District Plan
	Appendix – Traffic Code	1291	7-6-04	Stop Intersections
	Ch. 165	1292	7-19-04	R-1 Special Exception Use
	Ch. 9	1293	7-19-04	Urban Renewal Area
	170.11(3)	1294	7-19-04	Street Surfacing
	41.08(1)	1295	7-19-04	Discharging Weapons
	Appendix – Traffic Code	1296	8-2-04	No Parking Zones
	Appendix – Traffic Code	1297	8-2-04	Stop Intersections
	Ch. 138	1298	8-2-04	Street Grade
Nov-04	Appendix – Traffic Code	1299	8-16-04	No Parking Zones
	70.03	1300	9-7-04	Parking Violations: Alternate
		1301	9-7-04	R-5 Planned Residence District Plan
	Ch. 137	1302	9-20-04	Alley Vacation
	Ch. 137	1303	9-20-04	Street Vacation
	Appendix – Traffic Code	1304	9-20-04	Stop Intersections
	100.12	1305	9-20-04	Highway 92 West Sewer
	Ch. 75	1306	10-4-04	ATVs and Snowmobiles
	166.11(3)(A)	1307	10-4-04	Site Plan Design Standards
	Appendix – Traffic Code	1308	10-4-04	No Parking Zones
May-05	Appendix – Traffic Code	1309	10-18-04	Stop Intersections
	Appendix – Traffic Code	1310	2-7-05	Stop Intersections
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	Ch. 165	1312	2-22-05	Zoning Map
	Appendix – Traffic Code	1313	3-7-05	No Parking Zones
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	Ch. 156	1315	3-7-05	Building Code
	Ch. 157	1316	3-7-05	Electrical Code
	Ch. 158	1317	3-7-05	Plumbing Code
	Ch. 159	1318	3-7-05	Mechanical Code
	160.02, 160.03, 160.05	1319	3-7-05	Fire Prevention Code
	Ch. 162	1320	3-7-05	Fuel Gas Code
Aug-05	Ch. 165	1321	3-21-05	C-3 Special Exception Uses
	Ch. 9	1322	3-21-05	Urban Renewal Area
	Ch. 9	1323	3-21-05	Urban Renewal Area

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Aug-05	Ch. 165	1324	3-21-05	Zoning Map
	166.04(2)(I)	1325	3-21-05	Site Plans
	Ch. 137	1326	3-21-05	Street Vacation
	Appendix – Traffic Code	1327	4-4-05	Stop Intersection
	Ch. 137	1328	4-18-05	Street Vacation
	Not Codified	1329	5-2-05	Construction Specifications
	Ch.7	1330	5-2-05	Industrial Property Tax Exemption
	Appendix – Traffic Code	1331	5-2-05	No Parking Zones
Nov-05	Ch. 165	1332	6-6-05	Zoning Map
	Ch. 134	1333	6-20-05	Use of City Right-of-Way
	Ch. 110	1334	6-20-05	Gas Franchise
	Ch. 165	1335	7-18-05	Zoning Map
	Ch. 9	1336	7-18-05	Urban Renewal Area
	Ch. 137	1337	8-1-05	Alley Vacation
Feb-06	Ch. 137	1338	9-6-05	Alley Vacation
	Ch. 137	1339	10-17-05	Easement Vacation
	Ch. 113	1340	10-17-05	Regulation of Cable TV Rates
	Ch. 165	1341	11-7-05	Zoning Map
	Ch. 165	1342	11-7-05	Zoning Map
	Ch. 48	1343	11-7-05	Sex Offenders
	Appendix – Traffic Code	1344	11-7-05	Stop Intersections
	Appendix – Traffic Code	1345	11-7-05	No Parking Zones
	75.02(2)	1346	11-21-05	Snowmobile Definition
	Ch. 80	1347	11-21-05	Abandoned Vehicles
May-06		1348	12-5-05	R-5 Planned Residence District Plan
	166.11(2)	1349	12-19-05	Site Plans
	166.11(3)(A)	1350	2-6-06	Site Plans
	Appendix – Traffic Code	1351	3-6-06	No Parking Zones
	Appendix – Traffic Code	1352	3-6-06	Stop Intersections
	165.09	1353	3-6-06	M-1 & M-2 Permitted Uses
	Appendix – Traffic Code	1354	3-20-06	Stop Intersections
	Appendix – Traffic Code	1355	3-20-06	Speed Limit
Aug-06	Appendix – Traffic Code	1356	4-17-06	Stop Intersections
	Ch. 165	1357	5-1-06	Zoning Map
	99.05	1358	5-1-06	Sewer User Charges
	166.11(3)(A)	1359	6-5-06	Site Plans
	Appendix – Traffic Code	1360	7-17-06	Stop Intersections
	165.03(16)	1361	7-17-06	Zoning Definitions
Nov-06	170.29	1362	9-5-06	Subdivision Regulations
	100.13	1363	9-5-06	Benefited Sewer District
	Ch. 7	1364	9-18-06	Industrial Property Tax Exemption
	Ch. 137	1365	10-2-06	Alley Vacation
	Ch. 137	1366	10-16-06	Alley Vacation
	Appendix – Traffic Code	1367	10-16-06	Stop Intersections
	Appendix – Traffic Code	1368	10-16-06	No Parking Zones
Feb-07	99.05(3)	1369	11-6-06	Sewer User Charges
	Ch. 131	1370	12-4-06	Indianola Bike Nite
	Ch. 7	1371	12-18-06	Industrial Property Tax Exemption
	Appendix – Traffic Code	1372	2-5-07	Stop Intersections

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May-07	Ch. 7	1375	3-19-07	Industrial Property Tax Exemption
	Appendix – Traffic Code	1376	3-19-07	Special 30 MPH Speed Zones
	Ch. 165	1377	3-19-07	Zoning Map
	Ch. 165	1378	3-19-07	Zoning Map
	Appendix – Traffic Code	1379	4-2-07	Persons With Disabilities Parking
Aug-07	165.11(9)	1380	5-21-07	Zoning Vegetation Regulations
	Appendix – Traffic Code	1381	6-18-07	Stop Intersection
	Appendix – Traffic Code	1382	6-18-07	No Parking Zone
	Ch. 165	1383	7-2-07	Zoning Map
	Ch. 7	1384	7-16-07	Industrial Property Tax Exemption
Feb-08	Appendix – Traffic Code	1385	8-20-07	Special 45 MPH Speed Zone
		1386	8-20-07	R-5 Planned Residence District Plan
	Ch. 165	1387	8-20-07	C-2 Special Requirements
	56.05(1) & (2)	1388	10-1-07	Vicious Animals
	165.10(13), C-2 Regulations	1389	11-5-07	Outside Storage of Race Cars
	Ch. 137	1390	11-5-07	Alley Vacation
	166.02(4)	1391	11-5-07	Site Plans
	166.11(3)(A)	1392	11-5-07	Site Plans
	Ch. 7	1393	11-5-07	Industrial Property Tax Exemption
	Ch. 7	1394	11-5-07	Industrial Property Tax Exemption
	Ch. 131	1395	12-3-07	Indianola Bike Nite
	Ch. 9	1396	12-17-07	Urban Renewal Area
	99.05	1397	12-17-07	Sewer User Charges
	Appendix – Traffic Code	1398	12-17-07	No Parking Zones
	155.24(9), 155.26.5, 155.31(6)	1399	12-17-07	Signs
May-08	100.14	1400	1-7-08	Benefited Sewer District
	Ch. 7	1401	1-7-08	Industrial Property Tax Exemption
	Appendix – Traffic Code	1402	2-4-08	Stop Intersections
	Appendix – Traffic Code	1403	2-4-08	No Parking Zones
	100.15	1404	2-19-08	Benefited Sewer District
	106.09 (1)	1405	4-7-08	Recycling Fee
Aug-08	Appendix – Traffic Code	1406	5-19-08	No Parking Zones
	155.04(8), 155.24(7), 155.31(1)(B), (2)(B), (3)(B), (7)(D)	1407	5-19-08	Sign Code
	55.01(2), 55.16	1408	6-2-08	Off-leash Dog Park
	Ch. 7	1409	6-2-08	Industrial Property Tax Exemption
	Ch. 7	1410	6-2-08	Industrial Property Tax Exemption
	50.02(13), 135.03, 136.16	1411	7-7-08	Storm Water & Sump Pump Run-off
	99.05(1)(C), (2)(C)	1412	7-21-08	Sewer User Charges
	Appendix – Traffic Code	1413	8-18-08	No Parking Zones
	Appendix – Traffic Code	1414	8-18-08	Stop Intersections
	165.03(28), 165.10(14), 170.06(4)	1415	9-2-08	Townhome Lots
Jan-09	Ch. 7	1416	9-15-08	Industrial Property Tax Exemption
	Appendix – Traffic Code	1417	9-15-08	Stop Intersections
	Appendix – Traffic Code	1418	11-17-08	Stop Intersections

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May-09	Appendix – Traffic Code	1419	2-2-09	Persons With Disabilities Parking
	155.24(6), 155.31(6)(D)	1420	2-2-09	Roof Signs
	Ch. 7	1421	2-2-09	Industrial Property Tax Exemption
	Ch. 161	1422	2-2-09	Floodplain Regulations
	Ch. 165	1423	2-2-09	Zoning Map
	Ch. 131	1424	3-16-09	Indianola Bike Nite
Sep-09		1425	FAILED	
	166.11(3 & 4)	1426	4-6-09	Site Plans
	70.06(5 & 6)	1427	4-6-09	Impoundment of Vehicles
	Ch. 9	1428	4-20-09	Urban Renewal Area
	Ch. 138	1429	5-4-09	Street Grades
	Ch. 132	1430	5-18-09	RAGBRAI - (Not Codified)
	165.09(A-1), 165.39(8)	1431	5-18-09	Zoning Regulations
	165.09(C-2), 165.10(13)	1432	6-1-09	Zoning Regulations
	Ch. 165	1433	6-1-09	Zoning Map
	Ch. 137	1434	6-1-09	Alley Vacations
	99.05	1435	6-15-09	Sewer User Charges
	Ch. 165	1436	7-6-09	Zoning Map
	Ch. 137	1437	7-6-09	Alley Vacation
Jan-10	Ch. 137	1438	8-17-09	Alley Vacation
	Appendix – Traffic Code	1439	8-17-09	Stop Intersections
	Appendix – Traffic Code	1440	8-17-09	No Parking Zone
	166.11(2)	1441	10-5-09	Site Plan
	165.11(9)	1442	12-7-09	Zoning Regulations
May-10	156.01-156.03, 156.09, 156.13, 156.15, 156.18, 156.20-156.23, 156.28-156.31	1443	2-16-10	Building Code
	158.01-158.03, 158.06, 158.07, 158.10	1444	2-16-10	Plumbing Code
	159.01, 159.02, 159.06, 159.07, 159.10, 159.12, 159.14	1445	2-16-10	Mechanical Code
	157.02, 157.05, 157.06	1446	2-16-10	Electrical Code
	Ch. 131	1447	3-1-10	Indianola Bike Nite
	Ch. 162	1448	3-1-10	Fuel Gas Code
	160.02, 160.03, 160.05, 160.10	1449	3-1-10	Fire Code
	Appendix – Traffic Code	1450	3-1-10	Stop Intersections
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	Ch. 137	1452	3-15-10	Alley Vacation
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Nov-10	170.40	1454	7-6-10	Buffer Yard Requirements
	69.07(5)	1455	7-6-10	Parking Prohibited
	100.16	1456	7-19-10	Benefited Sewer District
	100.04(2)	1457	7-19-10	Benefited Sewer District
	100.09(2)	1458	7-19-10	Benefited Sewer District
	99.05	1459	7-19-10	Sewer User Charges
	Not Codified	1460	8-2-10	Dangerous Buildings Notice
	Ch. 138	1461	9-7-10	Street Grades

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	Ch. 103	1463	10-18-10	Stormwater Utility
	Ch. 104	1464	10-18-10	Stormwater Management Fees
	Ch. 165	1465	12-20-10	Zoning Map
May-11	Ch. 164	1466	1-18-11	SWECS
	99.05 (1)(C), (2)(C), (3)(C), (4)(C)	1467	2-22-11	Sewer User Charges
	Ch. 131	1468	3-7-11	Indianola Bike Nite
	Ch. 7	1469	4-4-11	Industrial Property Tax Exemption
	165.10 (15)	1470	4-4-11	Temporary or Seasonal Structures
Aug-11	Ch. 7	1471	5-16-11	Industrial Property Tax Exemption
	Ch. 138	1472	5-16-11	Street Grades
	135.16	1473	6-6-11	Weight Limit on Construction Road
	Appendix – Traffic Code	1474	6-20-11	Stop Intersections
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Nov-11	Ch. 137	1476	7-5-11	Alley Vacation
	3.01	1477	8-22-11	Wards
	Ch. 7	1478	9-6-11	Industrial Property Tax Exemption
	Ch. 115	1479	9-6-11	Electric Franchise
	Appendix – Traffic Code	1480	9-19-11	No Parking Zones
	3.01	1481	10-3-11	Wards
	166.11(3)(A)	1482	10-3-11	Site Plans
Feb-12	Ch. 7	1483	10-17-11	Industrial Property Tax Exemption
	Appendix – Traffic Code	1484	11-7-11	No Parking Zones
	Appendix – Traffic Code	1485	11-7-11	Persons With Disabilities Parking
	Appendix – Traffic Code	1486	11-21-11	Stop Intersections
	100.17	1487	11-21-11	Benefited Sewer District
	115.14	1488	12-5-11	Electric Franchise Fee
	69.09	1489	12-19-11	Truck and Trailer Parking
May-12	Ch. 131	1490	2-21-12	Indianola Bike Nite
	165.09(M-2)	1491	3-5-12	Zoning Regulations
	165.04, 165.09	1492	3-5-12	C-l Zoning District
	Ch. 138	1493	4-2-12	Street Grades
Aug-12	Ch. 165	1494	4-16-12	Zoning Map
	Ch. 7	1495	5-7-12	Industrial Property Tax Exemption
	Ch. 165	1496	5-7-12	Zoning Map
	Ch. 137	1497	5-21-12	Alley Vacation
	166.04(2)(J)	1498	5-21-12	Buffer Requirements
	140.03, 170.11(2)(A)	1499	5-21-12	Access Spacing for Thoroughfares
	17.04(6)	1500	5-21-12	Council Committee Meetings
	Ch. 110	1501	7-16-12	Natural Gas Franchise
Nov-12	Ch. 165	1502	10-1-12	Zoning Map
	Ch. 165	1503	10-1-12	Zoning Map
	166.03(12)	1504	10-1-12	Site Plan Required Information
Apr-13	Ch. 7	1505	11-19-12	Industrial Property Tax Exemption
	Ch. 137	1506	1-22-13	Street Vacation
	165.09	1507	1-22-13	C-3 Special Exception Uses
	155.24(7), 155.31(7)(D & E)	1508	1-22-13	Sign Code
	Ch. 165	1509	2-4-13	Zoning Map

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SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Apr-13	1.01, 1.02(5)	1510	3-4-13	Readopted Code of Ordinances
	Ch. 156	1511	3-25-13	Building Code
	157.02	1512	3-25-13	Electrical Code
	158.01, 158.02	1513	3-25-13	Plumbing Code
	159.01, 159.02	1514	3-25-13	Mechanical Code
	160.02, 160.03, 160.05, 160.06, 160.14	1515	3-25-13	Fire Code
	162.01, 162.02, 162.03, 162.08, 162.09, 162.10, 162.11	1516	3-25-13	Fuel Gas Code
Aug-13	55.06	1517	5-6-13	Bee Keeping
	106.09(1)	1518	5-20-13	Recycling Fee
	155.10(9)	1519	6-3-13	Off-premises Signs
	166.11(3)(A)	1520	6-17-13	Site Plans
	155.10(9)	1521	6-17-13	Off-premises Signs
	Ch. 165	1522	7-1-13	Zoning Map
	69.12	1523	7-15-13	Simpson College Campus Neighborhood Parking

CODE OF ORDINANCES

CITY OF INDIANOLA, IOWA

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1.04 Indemnity

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1.08 Catchlines and Notes

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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 Indianola, Iowa.

(Ord. 1510 – Apr. 13 Supp.)

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances 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, unless specifically defined otherwise in another portion of this Code of Ordinances:

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 Indianola, Iowa.

3. "Clerk" means the city clerk of Indianola, 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 Indianola, Iowa.

(Ord. 1510 – Apr. 13 Supp.)

6. "Council" means the city council of Indianola, Iowa.

7. "County" means Warren County, Iowa.

8. "Measure" means an ordinance, amendment, resolution or motion.

9. "Month" means a calendar month.

10. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."

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 Indianola, 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. "Preceding" and "following" mean next before and next after, respectively.

15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.

16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.

17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.

18. "Public property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.

19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

20. "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.

21. "State" means the State of Iowa.

22. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.

23. "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.

24. "Writing" and "written" include printing, typing, lithographing, or other mode of representing words and letters.

25. "Year" means a calendar year.

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 the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.

1. Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular.

2. May. The word “may” confers a power.

3. Must. The word “must” states a requirement.

4. Shall. The word “shall” imposes a duty.

5. Gender. The masculine gender includes the feminine and neuter genders.

6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.

7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the 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.

1.07 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)

1.08 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.

1.09 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)

1.10 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])

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.

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CHAPTER 2

CHARTER

2.01 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 TITLE. This chapter may be cited as the charter of the City of Indianola, 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 two (2) Council Members elected at large and one (1) Council Member from each of four (4) wards as established by this Code of Ordinances, elected for overlapping terms of four (4) years.

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of four (4) 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.

[†] **EDITOR'S NOTE**: Ordinance No. 489 adopting a charter for the City was passed and approved by the Council on July 7, 1975. Pursuant to an election held on November 5, 1991, the term of office of the Mayor was changed from a two-year term to a four-year term.

(Code of Iowa, Sec. 372.1)

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CHAPTER 3

BOUNDARIES

3.01 Division Into Wards **3.02 Voting Precincts**

3.01 DIVISION INTO WARDS. The City is hereby divided into four (4) wards by drawing two (2) imaginary lines, as follows:

One line which is basically a north-south line shall begin at the intersection of the centerline of North Jefferson Way and the north corporate limits and shall proceed thence south down the centerline of North Jefferson Way to the centerline of East Girard Avenue, thence west along the centerline of East and West Girard Avenue to the centerline of North D Street, thence south down the center line of North D Street to the centerline of West Boston Avenue, thence east along the centerline of West Boston Avenue to the centerline of South C Street, thence south along the centerline of South C Street to the centerline of West Ashland Avenue, thence west along the centerline of West Ashland Avenue to the centerline of South D Street, thence south along the centerline of South D Street to the centerline of West 2nd Avenue, thence west along the centerline of West 2nd Avenue to the centerline of North E Street, thence south along the centerline of North E Street to the centerline of West 4th Avenue, thence west along the centerline of West 4th Avenue to the centerline of South G Street, thence south along the centerline of South G Street to the centerline of West 12th Street, thence west along the centerline of West 12th Street to the centerline of South K Street, thence south along the centerline of South K Street to the centerline of West 17th Avenue, thence east along the centerline of West 17th Avenue to the intersection with the west corporate limits, thence south along the west corporate limits to the south corporate limits, thence east along the south corporate limits to the centerline of South Jefferson Way, thence south down the centerline of South Jefferson Way to the south corporate limits.

The other line which is basically an east-west line shall begin at the intersection of Short Creek and the east corporate limits and shall then proceed in a westerly direction along Short Creek to the centerline of North 15th Street, thence north up the centerline of North 15th Street to the centerline of the McVay Trail, thence west along the centerline of the McVay

Trail to the centerline of North 5th Street, thence south down the centerline of North 5th Street to the centerline of East Ashland Avenue, thence west along the centerline of East Ashland Avenue to the centerline of North 4th Street, thence north along North 4th Street to the centerline of East Clinton Avenue, thence west along the centerline of East Clinton Avenue to the centerline of North Howard Avenue, thence south along the centerline of North Howard Avenue to the centerline of West Boston Avenue, thence west along the centerline of West Boston Avenue to the centerline of North D Street, thence north along the centerline of North D Street to the centerline of West Clinton Avenue, thence west along the centerline of West Clinton Avenue to the centerline of North N Street, thence north up the centerline of North N Street, to the centerline of West Euclid Avenue, thence west along the centerline of West Euclid Avenue to the centerline of North W Street, thence north up the centerline of North W Street to the centerline of West Henderson Avenue, thence west along the centerline of West Henderson Avenue to the west corporate limits.

1. The First Ward: All that part or portion of the City lying to the east and north of the north and east line, as described above.

2. The Second Ward: All that part or portion of the City lying to the west and north of the north and west line, as described above.

3. The Third Ward: All that part or portion of the City lying to the south and west of the west and south line, as described above.

4. The Fourth Ward: All that part or portion of the City lying to the east and south of the south and east line, as described above.

The First Ward is divided into two precincts by drawing an imaginary line that begins at North Jefferson Way and proceeds east along the centerline of East Iowa Avenue to the east corporate limits.

The Second Ward is divided into two precincts by drawing an imaginary line that begins at North Jefferson Way and proceeds west along the centerline of West Iowa Avenue, thence south along the centerline of North Kenwood Boulevard, thence west along the centerline of West Euclid Avenue to the centerline of North W Street, thence north up the centerline of North W Street to the centerline of West Henderson Avenue, thence west along the centerline of West Henderson Avenue to the west corporate limits.

The Third Ward is divided into two precincts by drawing an imaginary line that begins at South D Street and proceeds west along the centerline of West 2nd Avenue to the west corporate limits.

The Fourth Ward consists of one precinct within itself.

(Ord. 1481 – Nov. 11 Supp.)

3.02 VOTING PRECINCTS. There are four (4) voting precincts, numbered from one (1) to four (4) inclusive, which correspond and are coextensive with the limits of the respective wards established in Section 3.01.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction

4.02 Environmental Violation

4.03 Penalties

4.04 Civil Citations

4.05 Alternative Relief

4.06 Criminal Penalties

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

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

4.02 ENVIRONMENTAL VIOLATION. A municipal infraction 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.

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

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

1. Standard Civil Penalties.

A. First Offense - Not to exceed $500.00

B. Each Repeat Offense - Not to exceed $750.00

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 one thousand dollars ($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 one thousand dollars ($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.

4.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 56.1, 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 60 and subject to the conditions of Rule of Civil Procedure 60.1. 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.

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

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

4.06 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

5.01 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 Indianola 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 office:

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 contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

(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 fifteen hundred dollars ($1500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[10])

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])

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used

6.02 Nominations by Petition

6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit

6.05 Filing, Presumption, Withdrawals, Objections

6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than twenty-five (25) 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. Each eligible elector who signs a nominating petition shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition shall not sign it. Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the Secretary of State and shall include information required by the Code of Iowa.

(Code of Iowa, Sec. 45.3)

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

INDUSTRIAL PROPERTY TAX EXEMPTIONS

7.01 Purpose

7.02 Definitions

7.03 Period of Partial Exemption

7.04 Amounts Eligible for Exemption

7.05 Limitations

7.06 Applications

7.07 Approval

7.08 Exemption Repealed

7.09 Dual Exemptions Prohibited

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

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

1. "Actual value added" means the actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the local assessor as of January 1 of each year for which the exemption is received.

2. "Distribution center" means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

3. "New construction" means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required

for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.

4. "New machinery and equipment assessed as real estate" means new machinery and equipment assessed as real estate pursuant to Section 427A.1, Subsection 1, Paragraph "e", Code of Iowa, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

5. "Research-service facilities" means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

6. "Warehouse" means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the Code of Iowa, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

7.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, distribution centers, and the acquisition of or improvement to machinery and equipment assessed as real estate, is eligible to receive a partial exemption from taxation for a period of five (5) years.

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

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

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

1. For the first year, seventy-five percent (75%)

2. For the second year, sixty percent (60%)

3. For the third year, forty-five percent (45%)

4. For the fourth year, thirty percent (30%)

5. For the fifth year, fifteen percent (15%)

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

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

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

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

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.

2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and Finance and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue and Finance.

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

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

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

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

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

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

EDITOR'S NOTE

The following ordinances have been adopted granting prior or final approval:

ORDINANCE NO.	ADOPTED	LOCATION
1244	3-17-03	1300-1310 North 4th Street
1280	4-5-04	1809 North 9th Street
1286	6-7-04	1707 North 14th Street
1330	5-2-05	1707 North 14th Street
1364	9-18-06	1100 North 14th Street
1371	12-18-06	1816 North 7th Street
1374	2-5-07	1210 North 14th Street
1375	3-19-07	1100 North 14th Street
1384	7-16-07	1210 North 14th Street
1393	11-5-07	1813 North 7th Street
1394	11-5-07	1809 North 9th Street
1401	1-7-08	1816 North 7th Street
1409	6-2-08	1809 North 9th Street
1410	6-2-08	1813 North 7th Street
1416	9-15-08	1812 North 7th Street
1421	2-2-09	1812 North 7th Street
1469	4-4-11	1817 North 7th Street
1471	5-16-11	1609 North 14th Street
1478	9-6-11	1110 North 14th Street

1483	10-17-11	1609 North 14th Street
1495	5-7-12	1110 North 14th Street
1505	11-19-12	1817 North 7th Street

CHAPTER 8

HOTEL-MOTEL TAX

8.01 Tax Imposed

8.02 Definitions

8.03 Collection and Use

8.01 TAX IMPOSED. There is imposed a seven percent (7%) hotel and motel tax upon the gross receipts from the renting of any and all rooms, apartments or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the gross receipts from the renting of sleeping rooms in dormitories and in memorial unions in colleges and universities. ***(Ord. 1247 – May 03 Supp.)***

(Code of Iowa, Sec. 422A.1)

8.02 DEFINITIONS. "Renting" and "rent," as used in this chapter, include any kind of direct or indirect charge for the use of rooms, apartments or sleeping quarters. However, the tax imposed in this chapter does not apply to the gross receipts from the renting of a room, apartment or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

(Code of Iowa, Sec. 422A.1)

8.03 COLLECTION AND USE. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue and Finance in the manner required by State law. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City and shall be used in accordance with the provisions of State law.

(Code of Iowa, Sec. 422A.1 & 422A.2)

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CHAPTER 9

URBAN RENEWAL AND REVITALIZATION

9.01 Urban Renewal
9.02 Urban Revitalization

9.01 URBAN RENEWAL. 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
1026	July 5, 1994	Hillcrest Urban Renewal Area
1137	November 2, 1998	Hillcrest Amendment No. 1 Area
1217	October 1, 2001	Downtown Urban Renewal Area
1218	October 1, 2001	Hillcrest Amendment No. 2 Area
1293	July 19, 2004	East Highway 92 Urban Renewal Area
1314	March 7, 2005	Downtown Amendment No. 1 Area
1323	March 21, 2005	East Highway 92 Amendment No. 1 Area
1336	July 18, 2005	Hillcrest Amendment No. 3 Area
1396	December 17, 2007	Downtown Amendment No. 2 Area
1428	April 20, 2009	Hillcrest Amendment No. 4 Area

9.02 URBAN REVITALIZATION. Ordinance No. 1130, adopted May 11, 1998, designated the Urban Revitalization Area for the City and is not codified herein but is specifically saved from repeal and remains in full force and effect.

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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 (4) 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 which have been delegated to the City Manager, 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. However, the Mayor may not veto an ordinance, amendment or resolution if the Mayor was entitled to vote on such

measure at the time of 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. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.

7. 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. Library Board of Trustees

3. Parks and Recreation Commission

4. Utility Board of Trustees

5. Civil Service Commission

6. Indianola Fine Arts and Community Beautification Commission

7. Indianola Commission on Substance Abuse and Risk Behavior

8. Indianola Senior Citizens Commission

9. Indianola Commission on Youth Affairs

10. Indianola Non-Judicial Human Relations Commission

11. Memorial Aquatic Center Commission

12. Cable and Communications Commission

15.04 COMPENSATION. The salary of the Mayor is six thousand dollars ($6,000.00) per year.

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

15.05 VOTING. So long as the City is governed by the Mayor-Council form of government composed of a Mayor and a Council consisting of two (2) Council members elected at large, and one (1) Council member from each of four (4) wards, the Mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the Council alone.

(Code of Iowa, Sec. 372.4)

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CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council

16.02 Powers and Duties

16.03 Voting Rights

16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL. The Mayor Pro Tem is 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 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 two (2) Council Members elected at large and one Council Member from each of four (4) wards as established by the Code of Ordinances, elected for overlapping terms of four (4) years.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.100)

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of twenty-five thousand dollars ($25,000.00) on any one 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 fourteen (14) days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

(Code of Iowa, Sec. 380.4)

17.04 COUNCIL MEETINGS. Procedures for giving notice of meetings of the Council and other provisions regarding the conduct of Council meetings are contained in Section 5.06 of

this Code of Ordinances. Additional particulars relating to Council meetings are the following:

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk.

(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 (3) 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.

6. Committee Meetings. The affairs of the City shall be under the study of one (1) committee of the Council which shall act in an advisory capacity to the Council as a whole. The purpose of this committee is to make policy and program recommendations to the full Council. The duties of the committee shall be to establish policy and program recommendations to the Council concerning the protection and preservation of the rights, privileges and property of the City or of its residents, and the preservation and improvement of the peace, safety, health, welfare, comfort and convenience of its residents. The committee shall consist of all Council members.

(Ord. 1500 – Aug. 12 Supp.)

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

1. City Clerk
2. City Treasurer
3. City Attorney
4. City Manager
5. Planning and Zoning Commission
6. Zoning Board of Adjustment
7. Zoning Administrator

17.06 COMPENSATION. The salary of each Council member is one hundred fifty dollars ($150.00) per month.

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation

18.02 Powers and Duties: General

18.03 Publication of Minutes

18.04 Recording Measures

18.05 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 AND COMPENSATION. The Council shall appoint by majority vote a City Clerk. The Clerk shall receive such compensation as established by resolution of the Council.

(Ord. 1228 – Aug. 02 Supp.)

(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 claim.

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

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

18.06 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])

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

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

18.09 ATTENDANCE AT MEETINGS. 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 position and the time at which they shall assume the duties of their office.

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

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

1. In the event of a change in the method of nomination process used by the City, certify to the Commissioner of Elections the type of nomination process to be used by the City no later than seventy-seven (77) 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 five o'clock (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. The City seal is circular in form, in the center of which is the word "INDIANOLA." In the margin at the top of the seal are the words "CITY SEAL," and at the bottom of the margin is the word "IOWA."

CHAPTER 19

CITY TREASURER

19.01 Appointment and Compensation

19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Treasurer. The Treasurer shall receive such compensation as established by resolution of the Council.

(Ord. 1228 – Aug. 02 Supp.)

19.02 COMPENSATION. ***(Repealed by Ord. 1215 – Nov. 01 Supp.)***

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. 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.

4. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

5. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation

20.02 Attorney for City

20.03 Power of Attorney

20.04 Ordinance Preparation

20.05 Review and Comment

20.06 Provide Legal Opinion

20.07 Attendance at Council Meetings

20.08 Prepare Documents

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

(Ord. 1228 – Aug. 02 Supp.)

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

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

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

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

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

20.04 ORDINANCE PREPARATION. The City Attorney shall prepare those ordinances 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, Council or City Manager.

(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])

CHAPTER 21

CITY MANAGER

21.01 Appointment and Compensation **21.02 Duties**

21.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Manager to serve at the discretion of the Council. The City Manager shall receive such compensation as established by resolution of the Council and payment shall be made biweekly from the treasury of the City, in the manner provided for paying other officers and employees.

21.02 DUTIES. The duties of the Manager are as follows:

1. To supervise enforcement and execution of the City laws.

2. To attend all meetings of the Council unless excused.

3. To recommend to the Council such measures as may be deemed necessary or expedient for the good government and welfare of the City.

4. To generally supervise and direct the administration of the City government and, with the approval of the Council, create such positions as shall be deemed advisable.

5. To supervise and direct the official conduct of all officers of the City whom the City Manager has power to appoint and the Police Chief and the City Clerk. The City Manager shall also be responsible for and assist in the management of all departments of the City except the utilities directed by Utilities Board of Trustees.

6. To account for all contracts for work to be done for the City, all purchases of materials and supplies, and to assure that such materials and supplies are received and are of the quality and character called for by the contract. This is exclusive of the utilities under the direction of the Utilities Board of Trustees.

7. Subject to the approval of the Council, to fix the compensation to be paid all of the City employees which the City Manager has the power to appoint as well as the Police Chief and the City Clerk. The City Manager shall have power to employ, reclassify, or discharge all employees of the City except the City Attorney, the City

Treasurer, City Clerk, the Board of Library Trustees, the Memorial Commission, and the Utilities Board of Trustees. Said employment, reclassification or discharge shall be subject to provisions of the Veterans Preference Law, Chapter 35C of the Code of Iowa, and the Civil Service Law, Chapter 400 of the Code of Iowa. All employees for purposes of this subsection shall include, but not be limited to one (1) or more Deputy Clerks, Administrative Assistants, Building Inspector, Engineer, Director of Services, or any other position of employment with the government of the City whose appointment is not otherwise provided for by the terms of this chapter. The City Manager also has the power to appoint or employ persons to fill all the places for which no other mode of appointment is provided, and to administer oaths of office.

8. To assist in the management of all property and facilities, except property improvements and undertakings managed by the Utilities Board of Trustees.

9. To cooperate with the Mayor and other administrative agencies; to cooperate and assist in the management of the Library Board of Trustees and Memorial Commission. The City Manager shall also assist in the preparation of their budgets and be responsible for their submission to the Council as a part of the City's total budget. The City Manager or a designated assistant shall be the liaison and contact person between the above-listed boards and commissions and the Council.

10. To investigate the conduct of City affairs under the City Manager's supervision. The City Manager or any person appointed by the City Manager for the purpose, may summarily and without notice investigate the affairs and conduct of any department, agency, officer or employee under the City Manager's supervision.

11. To issue all licenses and permits required by State statute or ordinance and to provide for and cause records to be kept of the issuance and revocation of such licenses and permits. Council approval prior to issuance shall be obtained when required.

12. To prepare and submit to the Council and Mayor annually the required budgets.

13. To perform the additional following financial functions:

A. To attest in writing that the detailed financial report showing receipts and disbursements is accurate;

B. To review and comment on the account balances in the Treasurer's report; and

C. To comment on the financial position of the City.

14. To assume other duties as duly directed by the Council.

15. To cooperate with the Utilities Board of Trustees in the use of the services of the Clerk's office and the data processing system of the City under a division of services and costs which would be mutually advantageous to both parties.

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library

22.02 Library Trustees

22.03 Qualifications of Trustees

22.04 Organization of the Board

22.05 Powers and Duties

22.06 Contracting with Other Libraries

22.07 Nonresident Use

22.08 Expenditures

22.09 Annual Report

22.10 Injury to Books or Property

22.11 Theft

22.12 Notice Posted

22.01 PUBLIC LIBRARY. The public library for the City is known as the Indianola 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 seven (7) resident members. All members are to be appointed by the Mayor with the approval of the Council.

22.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of twenty-one (21) 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 (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.

2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

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. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.

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 on behalf of the Library.

(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 (5) percent 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. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary.

(Code of Iowa, Sec. 384.20 & 392.5)

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 (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) 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)

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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. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of ten (10) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who 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 (5) 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. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

6. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been

submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 24

PARKS AND RECREATION COMMISSION

24.01 Parks and Recreation Commission Created

24.02 Commission Organization

24.03 Qualifications of Commissioners

24.04 Powers and Duties of the Commission

24.05 Reports

24.06 Tree Board

24.01 PARKS AND RECREATION COMMISSION CREATED. A Parks and Recreation Commission 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 for the leisure time of the City's residents of all ages.

24.02 COMMISSION ORGANIZATION. The Commission shall consist of six (6) members appointed by the Mayor with the approval of the Council for overlapping three-year terms. They shall serve without compensation but may receive their actual expenses. Vacancies shall be filled in the same manner as the original appointment for the balance of the term. Any Commissioner may be reappointed for not more than one additional successive full term.

24.03 QUALIFICATIONS OF COMMISSIONERS. Qualifications of the Parks and Recreation Commissioners are as follows:

1. Be a minimum age of eighteen (18) years;

2. Reside within the corporate limits of the City;

3. Possess a vital interest in parks and recreation, as demonstrated by application for the position and recommendation by a citizen of the City.

24.04 POWERS AND DUTIES OF THE COMMISSION. In addition to its duty to make plans for parks and recreation and their facilities and to update and revise these plans as required, the Commission shall have all administrative powers in the adoption of policies, rules and regulations, subject to Council review, pertaining to the use and control of all parks and recreational buildings and facilities, including swimming pools where swimming programs

are controlled by the Commission. They shall provide adequate notice of services to the using public. The Commission also has these additional powers and duties:

1. The Commission may cooperate with the school board of Indianola Community School District and Simpson College in connection with the use of their facilities which may be made available for use in the recreation program.

2. The Parks and Recreation Director, in consultation with the Commission, shall prepare an annual budget for its operation, based upon the municipal fiscal year, and submit the same to the City Manager for review, prior to being submitted to the Council. The Commission shall stay informed monthly of the budget balance.

3. The Commission shall have the power and authority to solicit, accept or reject any gifts made to the Commission. All major gifts such as land, building, etc. requiring a transfer of title shall be subject to Council approval.

24.05 REPORTS. The commission shall make an annual report to the Council which shall contain a statement of its activity during the preceding year and recommendations for proposed activities for the coming year.

24.06 TREE BOARD. The Parks and Recreation Commission also serves as the City Tree Board and it is the Commission's responsibility to study, investigate, and develop a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public areas. Such a plan will be presented to the Council and upon its acceptance and approval shall constitute the official comprehensive tree plan for the City. The Commission shall review annually and update if needed the comprehensive City tree plan. The Commission, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter or question within the scope of its work.

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CHAPTER 25

UTILITY BOARD OF TRUSTEES

25.01 Purpose

25.02 Board Established

25.03 Appointment of Trustees

25.04 Bond

25.05 Compensation

25.06 Vacancies

25.07 Powers and Duties of the Board

25.08 Control of Funds

25.09 Accounting

25.10 Discriminatory Rates Illegal

25.11 Discontinuance of Board

25.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned water and electric utilities by a board of trustees.

25.02 BOARD ESTABLISHED. There is hereby established the Indianola Municipal Utilities Board of Trustees. The City's waterworks and electric light and power plant are under the management and control of the Board of Trustees. The Board of Trustees is also authorized to provide telecommunication services.

25.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five (5) persons to serve as trustees for staggered six (6) year terms. No public officer or salaried employee of the City may serve on the utility board. No trustee shall hold office for a period in excess of two (2) complete six-year terms plus any partial term for which the trustee might have been appointed.

25.04 BOND. Each trustee shall execute and furnish a bond in the amount of twenty-five hundred dollars ($2500.00), which bond shall be filed with the Clerk.

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

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.4)

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

Code of Iowa, Sec. 388.4[1])

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

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

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

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

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

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

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

(Code of Iowa, Sec. 388.5)

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

(Code of Iowa, Sec. 388.5)

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

(Code of Iowa, Sec. 388.6)

25.11 DISCONTINUANCE OF BOARD. A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the utility board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utility it administers is disposed of or leased for a period of over five (5) years.

(Code of Iowa, Sec. 388.2)

CHAPTER 26

CIVIL SERVICE COMMISSION

26.01 Purpose

26.02 Appointment and Term

26.03 Qualifications

26.04 Human Rights Commission

26.05 Compensation

26.06 Chairperson

26.07 Clerk

26.08 Records

26.09 Rooms and Supplies

26.10 Powers and Duties

26.01 PURPOSE. The purpose of this chapter is to provide for the appointment, powers and duties of a Civil Service Commission in accordance with the requirements of State law.

26.02 APPOINTMENT AND TERM. A Civil Service Commission consisting of three (3) members shall be appointed by the Mayor with the approval of the Council for staggered terms of four (4) years.

(Code of Iowa, Sec. 400.1)

26.03 QUALIFICATIONS. Commissioners must be citizens of Iowa, eligible electors and residents of the City preceding their appointment. No person while on said Commission shall hold or be a candidate for any office of public trust.

(Code of Iowa, Sec. 400.2)

26.04 HUMAN RIGHTS COMMISSION. Notwithstanding the provisions of Section 26.03, when a human rights commission has been established, the director thereof shall ex officio be a member, without vote, of the Civil Service Commission.

(Code of Iowa, Sec. 400.2)

26.05 COMPENSATION. Civil Service Commissioners shall serve without compensation.

(Code of Iowa, Sec. 400.2)

26.06 CHAIRPERSON. The Commission shall elect a Chairperson from among its members.

(Code of Iowa, Sec. 400.4)

26.07 CLERK. The City Clerk shall be clerk of the Commission.

(Code of Iowa, Sec. 400.4)

26.08 RECORDS. The Civil Service Commission shall keep a record of all its meetings and also a complete individual service record of each civil service employee which record shall be permanent and kept up to date.

(Code of Iowa, Sec. 400.4)

26.09 ROOMS AND SUPPLIES. The Council shall provide suitable rooms in which the Commission may hold its meetings and supply the Commission with all necessary equipment and a qualified shorthand reporter or an electronic voice recording device to enable it to properly perform its duties.

(Code of Iowa, Sec. 400.5)

26.10 POWERS AND DUTIES. The Commission shall administer the civil service procedure as contained in Chapter 400, Code of Iowa, and amendments thereto and shall have, exercise and perform all powers and duties as provided thereby.

CHAPTER 27

FINE ARTS AND COMMUNITY BEAUTIFICATION COMMISSION

27.01 Establishment

27.02 Powers and Duties

27.03 Annual Report

27.01 ESTABLISHMENT. There is hereby established the Indianola Fine Arts and Community Beautification Commission as an advisory body, to be composed of nine (9) persons who are residents of the City, to be appointed by the Mayor subject to confirmation by the Council. The membership shall be appointed for three-year terms. The membership shall be appointed with terms beginning and ending on January 1 and on a staggered basis so that the terms of only three (3) members shall expire at any given year. The members so appointed shall serve without compensation. The Parks and Recreation Director or the Director's designee shall serve as an ex officio member of the Commission. Other ex officio members as needed shall be appointed by the Mayor, subject to confirmation by the Council.

27.02 POWERS AND DUTIES.

1. As soon as may be practical after appointment of the original members, the Commission shall organize itself and establish its own rules of procedure.

2. The Commission shall encourage the cooperation and coordination of projects in the field of fine arts that will enhance the cultural level of the arts in the community. The Commission will encourage individual and group activity in the areas of creative writing, music, drama, dance, plastic and visual art, and related activities. Complete records shall be maintained in the office of the Clerk.

3. The Commission shall foster a broad fine arts program for the community through cooperative efforts with Simpson College and the Indianola Community School District as well as other groups interested in the arts. Such cooperation may include cooperative use of facilities.

4. The Commission shall coordinate the efforts of the citizens of the City in a community-based beautification effort. The Commission working with other civic groups shall prepare a plan for community beautification in a report to the Council. This plan will be updated each year and progress reports given as needed.

5. The Commission shall have the authority to accept or reject gifts made or offered to the Commission for use in connection with the fine arts programs or community beautification projects. Gifts of money shall be deposited with the City Treasurer and shall be credited to the Commission account.

27.03 ANNUAL REPORT. Every year at a time convenient to the Commission but prior to the last regular meeting of the Council for the year, the Commission shall make a written or oral report to the Council of the Commission's activities for the entire calendar year.

CHAPTER 28

COMMISSION ON SUBSTANCE ABUSE AND RISK BEHAVIOR

28.01 Establishment

28.02 Powers and Duties

28.03 Annual Report

28.01 ESTABLISHMENT. There is hereby established the Indianola Commission on Substance Abuse and Risk Behavior, as an advisory body, to be composed of eleven (11) persons who are residents of the City, to be appointed by the Mayor subject to confirmation by the Council. The members are to be appointed for three (3) year terms. The members shall serve without compensation.

28.02 POWERS AND DUTIES.

1. As soon as may be practical after appointment of the original members, the Commission shall organize itself and establish its own rules of procedure.

2. The Commission shall encourage cooperation and coordination of all information and education programs on substance abuse and risk behavior. Complete records shall be maintained in the office of the Clerk.

3. The Commission on substance abuse and risk behavior shall strive to cooperate with clergymen, doctors, educators, as well as other groups and individuals in promoting an effective program of help and information to those in need.

4. The Commission shall have the power and authority to accept or reject the gifts made or offered to the Commission for use in connection with programs in this area. Gifts of money shall be deposited with the City Treasurer and shall be credited to the Indianola Commission on Substance Abuse and Risk Behavior account.

28.03 ANNUAL REPORT. Every year at a time convenient to the Commission but prior to the last regular meeting of the Council for the year, the Commission shall make a written or oral report to the Council of the Commission's activities for the entire calendar year.

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CHAPTER 29

SENIOR CITIZENS COMMISSION

29.01 Establishment

29.02 Powers and Duties

29.03 Annual Report

29.01 ESTABLISHMENT. There is hereby established the Indianola Senior Citizens Commission as an advisory body, to be composed of five (5) persons who are residents of the City, to be appointed by the Mayor, subject to confirmation by the Council. The members are to be appointed for staggered three-year terms. The members so appointed shall serve without compensation. No member shall serve more than one term.

29.02 POWERS AND DUTIES.

1. As soon as may be practical after appointment of the original members, the Commission shall organize itself and establish its own rules of procedure.

2. The Commission shall encourage cooperation and coordination of all information and education programs for senior citizens. The Commission will encourage the public understanding of the current affairs affecting the lives of senior citizens. Complete records shall be maintained in the office of the Clerk.

3. The Commission shall strive to cooperate with clergymen, doctors, educators, as well as other groups and individuals in promoting an effective program of help and information to those in need.

4. The Commission shall have the power and authority to accept or reject the gifts made or offered to the Commission for use in connection with programs in this area. Gifts of money shall be deposited with the City Treasurer and shall be credited to the Indianola Senior Citizens Commission account.

29.03 ANNUAL REPORT. Every year at a time convenient to the Commission but prior to the last regular meeting of the Council for the year, the Commission shall make a written or oral report to the Council of the Commission's activities for the entire calendar year.

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CHAPTER 30

COMMISSION ON YOUTH AFFAIRS

30.01 Establishment

30.02 Powers and Duties

30.03 Annual Report

30.01 ESTABLISHMENT. There is hereby established the Indianola Commission on Youth Affairs, as an advisory body to be composed of twelve (12) persons who are residents of the City, to be appointed by the Mayor subject to confirmation by the Council. Two (2) members shall be eighteen (18) years of age or older, and ten (10) members shall be more than ten (10) and less than eighteen (18) years old. All members shall be appointed for two-year terms. All members shall serve without compensation. No member shall serve more than two (2) terms.

30.02 POWERS AND DUTIES.

1. As soon as may be practical after appointment of the original members, the Commission shall organize itself and establish its own rules of procedure.

2. The Commission shall encourage cooperation and coordination of all information and education programs on youth affairs. The Commission will encourage the public understanding of the current affairs affecting the lives of young citizens. Complete records shall be maintained in the office of the Clerk.

3. The Commission shall strive to cooperate with clergymen, doctors, educators, as well as other groups and individuals in promoting an effective program of help and information to those in need.

4. The Commission shall have the power and authority to accept or reject the gifts made or offered to the Commission for use in connection with programs in this area. Gifts of money shall be deposited with the City Treasurer and shall be credited to the Indianola Commission on Youth Affairs account.

30.03 ANNUAL REPORT. Every year at a time convenient to the Commission but prior to the last regular meeting of the Council for the year, the Commission shall make a written or oral report to the Council of the Commission's activities for the entire calendar year.

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CHAPTER 31

NON-JUDICIAL HUMAN RELATIONS COMMISSION

31.01 Establishment

31.02 Powers and Duties

31.03 Annual Report

31.01 ESTABLISHMENT. There is hereby established the Indianola Non-Judicial Human Relations Commission, as an advisory body to be composed of nine (9) persons who are residents of the City, to be appointed by the Mayor subject to confirmation by the Council. The members are to be appointed for three-year terms. The members shall be appointed with terms beginning and ending on January 1 and on a staggered basis so that the terms of only three (3) members shall expire at any given year. The members so appointed shall serve without compensation.

31.02 POWERS AND DUTIES.

1. As soon as may be practical after appointment of the original members, the Commission shall organize itself and establish its own rules of procedure.

2. The Commission shall encourage cooperation and coordination of all projects promoting human and civil rights and encourage citizens as well as government and private entities to maintain a commitment for the protection and preservation of civil rights, individual liberties and equal opportunity for all persons.

3. The Commission shall also foster the development of programs for schools, civic organizations, and other private and public entities.

4. The Commission shall have the power and authority to accept or reject the gifts made or offered to the Commission for use in connection with its programs. Gifts of money shall be deposited with the City Treasurer and shall be credited to the Indianola Non-Judicial Human Relations Commission account.

31.03 ANNUAL REPORT. Every year at a time convenient to the Commission but prior to the last regular meeting of the Council for the year, the Commission shall make a written or oral report to the Council of the Commission's activities for the entire calendar year.

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CHAPTER 32

MEMORIAL AQUATIC CENTER COMMISSION

32.01 Memorial Commission

32.02 Qualification and Appointment

32.03 Compensation and Vacancies

32.04 Powers and Duties

32.01 MEMORIAL COMMISSION. The Memorial Aquatic Center is under the management and control of the Memorial Aquatic Center Commission, which consists of five (5) members.

32.02 QUALIFICATION AND APPOINTMENT. Each Commissioner shall be an honorably discharged soldier, sailor, marine, airman or Coast Guard member and a resident of the City. The Commissioners shall be appointed by the Mayor with the approval of the Council for staggered three-year terms.

32.03 COMPENSATION AND VACANCIES. The Council shall, by resolution, set the compensation of the Commissioners. A vacancy on the Commission shall be filled in the same manner as the original appointment for the balance of the unexpired term.

32.04 POWERS AND DUTIES. The Commission shall manage and control the Memorial Aquatic Center, shall make and establish rules and regulations for its use and management, and shall have, exercise and perform all of the powers and duties granted to the Commission as contained in Chapter 37 of the Code of Iowa and amendments thereto.

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CHAPTER 35

POLICE DEPARTMENT

35.01 Department Established

35.02 Organization

35.03 Peace Officer Qualifications

35.04 Required Training

35.05 Compensation

35.06 Police Chief Appointed

35.07 Police Chief: Duties

35.08 Departmental Rules

35.09 Summoning Aid

35.10 Taking Weapons

35.01 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.

35.02 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.

35.03 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)

35.04 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)

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

35.06 POLICE CHIEF APPOINTED. The City Manager shall appoint the Police Chief.

(Code of Iowa, Sec. 400.13)

35.07 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.

35.08 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.

35.09 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)

35.10 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)

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CHAPTER 36

RESERVE PEACE OFFICERS

36.01 Establishment of Force

36.02 Training

36.03 Status of Reserve Officers

36.04 Carrying Weapons

36.05 Supplementary Capacity

36.06 Supervision of Officers

36.07 No Reduction of Regular Force

36.08 Compensation

36.09 Benefits When Injured

36.10 Insurance Liability and False Arrest Insurance

36.11 No Participation in Pension Fund or Retirement System

36.01 ESTABLISHMENT OF FORCE. A force of reserve peace officers is hereby established. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department's representative, and will participate on a regular basis in the agency's activities, including those of crime prevention and control, preservation of the peace and enforcement of the law.

36.02 TRAINING. Training for individuals appointed as reserve peace officers shall be provided by the Police Department under the direction of the Police Chief, but may be obtained in a Community College or other facility selected by the individual and approved by the Police Chief. All standards and training required under Chapter 80D of the Code of Iowa constitute the minimum standards for reserve officers. Upon satisfactory completion of training, the Police Chief shall certify the individual as a reserve police officer. There shall be no exemptions from the personal and training standards provided for in this chapter.

36.03 STATUS OF RESERVE OFFICERS. Reserve peace officers shall serve as peace officers on the orders and at the direction of the Police Chief. While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officer.

36.04 CARRYING WEAPONS. A member of the reserve force shall not carry a weapon in the line of duty until he or she has been approved by the Council and certified by the Iowa Law Enforcement Academy Council. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the Police Chief.

36.05 SUPPLEMENTARY CAPACITY. Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all the requirements of regular peace officers.

36.06 SUPERVISION OF OFFICERS. Reserve peace officers shall be subordinate to the Police Chief, shall not serve as peace officers unless under the direction of the Police Chief, and shall wear a uniform prescribed by the Police Chief, unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

36.07 NO REDUCTION OF REGULAR FORCE. There shall be no reduction of the authorized size of the regular law enforcement department of the City because of the establishment or utilization of reserve peace officers.

36.08 COMPENSATION. While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of $1.00 per year. In addition, the Police Chief may compensate reserve peace officers on an hourly basis, in the discretion of the Police Chief and subject to the approval of the Council. The hourly compensation shall be fixed from time to time by the Council.

36.09 BENEFITS WHEN INJURED. Hospital and medical assistance and benefits, as provided in Chapter 85 of the Code of Iowa, shall be provided by the Council to members of the reserve force who sustain injury in the course of performing official duties.

36.10 INSURANCE LIABILITY AND FALSE ARREST INSURANCE. Insurance liability and false arrest insurance shall be provided by the City to members of the reserve force while performing official duties in the same manner as for regular peace officers.

36.11 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM. This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of the State of which regular peace officer may become members.

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CHAPTER 37

FIRE DEPARTMENT

37.01 Establishment and Purpose

37.02 Organization/Composition

37.03 Training

37.04 Compensation

37.05 Officers Appointed

37.06 Fire Chief: Duties

37.07 Obedience to Fire Chief

37.08 Constitution

37.09 Accidental Injury Insurance

37.10 Liability Insurance

37.11 Fire Assistance Outside City

37.12 Mutual Aid

37.13 Authority to Cite Violations

37.14 Emergency Ambulance and Rescue Service

37.01 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)

37.02 ORGANIZATION/COMPOSITION. The department consists of the Fire Chief and not less than twenty-six (26) or more than fifty (50) active members and not more than ten (10) probationary members. There shall also be no more than ten (10) medic personnel.

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

37.03 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

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

37.04 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])

37.05 OFFICERS APPOINTED. The Fire Chief is appointed by and serves at the pleasure of the City Manager. The Fire Chief shall appoint an assistant chief to serve at the Fire Chief's

pleasure. The department shall elect such other officers as its constitution and bylaws may provide. 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 the Fire Chief.

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

12. Records. Cause to be kept records of the fire department personnel, fire fighting equipment, depreciation of all equipment and apparatus, the number of

responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

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

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

37.08 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.

37.09 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)

37.10 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)

37.11 FIRE ASSISTANCE OUTSIDE CITY. The terms and conditions upon which fire-fighting equipment of the City shall respond to calls of fire fighting or other emergency assistance outside the City shall be as follows:

1. The City may contract with townships and towns for assistance.

2. No charge shall be made for answering calls to other municipalities which have reciprocal arrangements with the City or with the fire department.

3. At least one (1) fire truck shall remain within the City at all times.

4. Not more than twenty (20) fire fighters shall be sent outside the City at any time, except as relief for a crew already engaged in service outside the City.

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

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

37.13 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)

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

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CHAPTER 38

HAZARDOUS SUBSTANCE SPILLS

38.01 Purpose

38.02 Definitions

38.03 Cleanup Required

38.04 Liability for Cleanup Costs

38.05 Notifications

38.06 Police Authority

38.07 Liability

38.01 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.

38.02 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])

38.03 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.

38.04 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.

38.05 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 Department and Fire Department 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 Department shall immediately notify the Department of Natural Resources.

2. Any other person who discovers a hazardous condition shall notify the Police Department or Fire Department, which shall then notify the Department of Natural Resources.

38.06 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.

38.07 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 38.02[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

40.06 Public Exposure

40.07 Keeping Disorderly House

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 a public offense.

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

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. Sound Equipment. Operate, play or permit the operation or playing of any sound equipment as to create a noise disturbance at a distance of fifty (50) feet or more from the device, when operated in or on a motor vehicle on a public right-of-way or public space. For purposes of this subsection, "noise disturbance" means any sound which endangers or injures the welfare, safety or health of a human being or disturbs a reasonable person of normal sensitivities or devalues or injures personal or real property.

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three (3) 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)

40.06 PUBLIC EXPOSURE. Except as hereinafter provided, no person shall expose those parts of his or her body hereinafter listed to another person in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person located in any public place.

1. A woman's nipple, the areola of a woman's breast, or full breast, except as necessary in the breast feeding of a baby.

2. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

This section does not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or such other places where such exposure occurs incident to the prescribed use of those facilities. This section does not apply to exposures occurring in live stage plays, live theatrical performances or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

40.07 KEEPING DISORDERLY HOUSE.

1. Prohibited. No person shall permit or suffer to continue, without taking legal steps to prevent the same, any quarreling, fighting, disorderly conduct or any other conduct or condition that threatens injury to persons or damage to property, or loud, raucous, disagreeable noises to the disturbance of the neighborhood, or to the disturbance of the general public, upon any premises owned by the person or in the person's possession. For the purposes of this section "to the disturbance of the general public" includes the disturbance of persons beyond the subject premises and/or to the disturbance of persons upon public places, including peace officers.

2. Authority to Restore Order and Disperse; Failure to Disperse. Upon issuance of a citation for a violation of this section, any peace officer of the City shall have authority to restore order upon the premises, up to and including ordering the dispersal of person(s) from the subject premises. Any person who fails to obey and abide an order shall be guilty of a violation of this section.

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances

41.02 False Reports to or Communications with Public Safety Entities

41.03 Refusing to Assist Officer

41.04 Harassment of Public Officers and Employees

41.05 Abandoned or Unattended Refrigerators

41.06 Antenna and Radio Wires

41.07 Barbed Wire and Electric Fences

41.08 Discharging Weapons

41.09 Throwing and Shooting

41.10 Urinating and Defecating

41.11 Fireworks Permit

41.12 Traps Prohibited

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 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)

41.06 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])

41.07 BARBED WIRE AND ELECTRIC FENCES.

1. Electric Fences. It is unlawful to place or maintain or operate any electrically operated fence in any part of the City, except in purely agricultural areas, and then only after the Police Chief has, by investigation, determined that the fence can be maintained without hazard to children or adults and has issued a permit therefor. Any such permit may be revoked at any time, and the continued maintenance after revocation shall constitute an offense.

2. Barbed Wire Fences. It is unlawful to place or maintain any barbed wire to enclose in whole or in part any park, terrace, lot or parcel of ground fronting on or adjacent to any sidewalk, street or alley.

41.08 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, BB guns or other firearms of any kind within the City limits except by written consent of the Police Chief or the Chief's designee.

(Ord. 1295 – Aug. 04 Supp.)

2. No person shall intentionally discharge a firearm in a reckless manner.

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

41.10 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.

41.11 FIREWORKS PERMIT. 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:

1. Personal Injury:.....$250,000.00 per person.

2. Property Damage: .....$ 50,000.00.

3. Total Exposure:.....$1,000,000.00.

(Code of Iowa, Sec. 727.2)

41.12 TRAPS PROHIBITED. It is unlawful for any person to rig, set, or maintain any steel-jaw leghold trap, conibear, snare, or box-type trap within the City limits unless a specific exception is granted by an authorized agent of the Council. However, box traps may be used by a licensed humane organization or by an individual working under the direction and with the permission of such an organization, for the capture of stray or nuisance animals.

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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 Peeping

42.08 Operation of Devices Tending to Cause Electrical Interference

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, parking lot, 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. For purposes of this subsection, notification may be by posting signs with substantially the following language:

NOTICE:

Entering or remaining on this property
without justification is trespassing
in violation of City Code.

For notification by posting signs to be valid, at least one sign must be posted conspicuously at each entrance where a vehicle may enter the property. All letters on the sign(s) must be legibly written and at least two (2) inches high. Also, the Police Chief may require a property owner to post more than the minimum number of signs in order to ensure that notification by posting is adequate and valid notice to the general public.

(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 tangible 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 PEEPING. It is unlawful to loiter on the public sidewalks, streets, alleys or other ways of the City, or on any private property, with the intent to peep or in the act of peeping, spying or looking into the windows of dwellings, apartments, homes or any private place, whether in close proximity thereto or not.

42.08 OPERATION OF DEVICES TENDING TO CAUSE ELECTRICAL INTERFERENCE. It is unlawful to operate or use any electrical sign or other device, apparatus, instrument or machine which causes reasonably preventable electrical interference with any other electrical apparatus that is in proper adjustment or alignment, including radio or television receiving sets and other sound equipment until such interference is removed, either by improving the said apparatus or replacing it with other apparatus which will not cause such interference.

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery or Offering For Sale

43.07 Nuisance

43.01 PURPOSE. The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

43.02 CONTROLLED SUBSTANCE DEFINED. The term "controlled substance" as used in this chapter is defined as the term "controlled substance" is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.

43.03 DRUG PARAPHERNALIA DEFINED. The term "drug paraphernalia" as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

43.04 DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.

2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.

3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

4. Proximity To Substances. The proximity of the object to controlled substances.

5. Residue. The existence of any residue of controlled substances on the object.

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons who, he or she knows or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

8. Instructions. Instructions, oral or written, provided with the object concerning its use.

9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.

10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

43.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a

controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

43.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

43.07 NUISANCE. In addition to the standard penalty for a violation of this chapter, or in lieu thereof, a violation of this chapter shall constitute a nuisance which may be abated in the manner provided in Chapter 50 of this Code of Ordinances, or in the alternative may be abated by injunction in the Iowa District Court.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.01 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 62.08 of this Code of Ordinances.*)

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:

A. "Emergency 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. "Home" means the minor's dwelling place. It need not be the minor's permanent dwelling place.

C. "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.

D. "Minor" means any unemancipated person under the age of eighteen (18) years.

E. "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 peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (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.

F. "Public place" includes shopping centers, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is 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.

G. "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.

H. "Unemancipated" means unmarried and still under the custody or control of a responsible adult.

2. Hours. It is unlawful for any minor to remain in or upon any public place in the City between the hours of one o'clock (1:00) a.m. and five o'clock (5:00) a.m. of each day.

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

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 30 minutes after the end of work or within 30 minutes before the beginning of work;

(2) Minor's place of religious activity or, if traveling, within 30 minutes after the end of the religious activity or 30 minutes before beginning such activity;

(3) Governmental or political activity or, if traveling, within 30 minutes after the end of the activity or 30 minutes before beginning such activity;

(4) School activity or, if traveling, within 30 minutes after the end of the activity or 30 minutes before beginning such activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within 30 minutes after the end of the activity or 30 minutes before beginning such 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 peace 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 curfew; 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 unless by legal order from a court with proper jurisdiction.

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 peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another 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 Police Chief 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 simple misdemeanor.

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

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 simple misdemeanor.

7. Notice. Notice of this section and its contents may be posted in or about such public or quasi-public places as may be designated by the police department in order that the public may be constantly informed of the existence of this section and its regulations.

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

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

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

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

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CHAPTER 47

PARK REGULATIONS

47.01 Activities Within Parks

47.02 Permits to be Produced and Exhibited

47.03 Fees For Park Use

47.04 Camping Areas

47.05 Park Hours

47.06 Penalty for Violations; Appeals

47.01 ACTIVITIES WITHIN PARKS.

1. Recreational Activities Prohibited. No person shall, in any park, engage in any sport, game, amusement or other exercise which is prohibited by notice posted by the Parks and Recreation Director.

2. Entering Restricted Areas. No person shall enter a park or part thereof posted as "Closed to the Public," nor shall any person use or abet the use of any such park or part thereof in violation of posted notices.

3. Sale of Goods or Services. No person shall expose or offer for sale any article, thing or service, nor shall any person station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, in any park, except a regularly licensed concessionaire or other person who has obtained an official permit from the Parks and Recreation Director; nor shall any person within any park or on its border announce, advertise or call the public's attention in any way to any article or service for sale or hire.

4. Posting of Notices. No person shall paste, glue, tack or otherwise affix or post any sign, placard, advertisement or inscription whatsoever, or erect or cause to be erected any sign whatsoever, on any structure or thing in a park, except as authorized by the Parks and Recreation Director.

5. Fires. No person shall light, build, or attempt to light or build a fire in any park, except in such areas designated for such use by the Parks and Recreation Director.

6. Abusing Structures or Property. No person shall climb, walk, stand, sit upon or otherwise abuse any wall, building, fountain, fence or railing in any park or upon any other park property not designated or customarily used for such purposes. No

person shall carve, cut, mark, paint, draw on or otherwise deface any park structures, trees, signs or other park property.

7. Pollution or Hindrance of Waters. No person shall throw, discharge or otherwise place or cause to be placed in the waters of any swimming pool, fountain, pond, lake, stream or other body of water in or adjacent to any park, or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution or the hindrance of the said waters.

8. Molesting Wildlife and Plantings. No person shall hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw stones or other missiles at any animal or bird in any park, nor shall any person remove or have in his or her possession a bird or wild animal or the eggs or nest of any bird or wild animal, in any park. No person shall pick or remove any flowers, bushes, trees or other growth within a park without written permission from the Parks and Recreation Commission.

9. Animals. No person shall bring a dog or other domestic animal into any park, except on a leash not to exceed fifteen (15) feet in length, or permit such dog or other domestic animal brought into any park by such person to disturb, interfere with, bite or assault any person or party occupying any park; and no person bringing a dog or a domestic animal in any park shall allow such dog or animal to defecate in said park, unless such person shall immediately remove such feces from said park or dispose of it in receptacles provided for trash and litter. Exceptions may be made in designated areas and at designated times, with approval of the Parks and Recreation Director.

10. Operation of Vehicles.

A. Snowmobiles, Go-carts, Motorcycles, Mopeds, Etc. No person shall bring, drive, use or ride a snowmobile, go-cart, motorcycle or moped in any park, except within those areas so designated, or bring, drive, use or ride any other similar vehicle prohibited from being brought, driven, ridden or used in any park by the Parks and Recreation Director.

B. Vehicles Generally; Observation of Traffic Control Signs, Maximum Speed. No person shall drive any vehicle in any park, except on roads or parking areas designed for such purposes and then only in accordance with posted signs as to speed, direction, parking, stopping, land markings and traffic controls.

11. Intoxicating Liquor or Controlled Substances. No person shall bring within, sell, give away or drink alcoholic beverages, except beer, at any time in the park, or be under the influence of intoxicating liquor or a controlled substance while in any park.

12. Gambling, Games of Chance; Permit Required. No person shall gamble or participate in or abet any game of chance or use any gambling device in any park, without first obtaining an official permit from the Parks and Recreation Director.

13. Entry Into Facilities Designated for Use of the Opposite Sex. No person, except for children under four (4) years of age, shall enter into, loiter or remain in any toilet, restroom, bathhouse, pavilion or structure, or section thereof, in any park, which has been designated by the Parks and Recreation Director for use of the opposite sex.

14. Setting up Camps, Hammocks. No person shall make use of the park as a place to camp, except in those areas designated for such use, during the hours of 11:00 p.m. until 5:00 a.m. of any day, nor shall any person swing, occupy or attach any hammock in any park, except in such portions thereof as designated for such purpose by the Parks and Recreation Director.

15. Solicitation or Collection of Donations; Charges for Services. No person shall beg or solicit alms or contributions in any park, nor shall any person solicit or collect any donation, or charge any fees for any service, whether private or public, except fees as charged by the park and approved by the Parks and Recreation Director.

16. Erection of Structures, Public Services; Permit or Consultation Required; Exceptions. No person shall construct or erect any building, tent or structure of any kind whatsoever in any park, whether permanent or temporary in character, into, upon or across any park, without first having obtained an official permit from the Parks and Recreation Director. No person shall run or string any public service across any park without first having consultation with the Parks and Recreation Director, City Manager and General Manager of Utilities. This section shall not apply to a self-contained recreational vehicle, a tent, or a tent trailer, which is camping in a designated area pursuant to an official permit from the Parks and Recreation Director.

17. Concerts, Amplified Musical Instruments; Communications Systems; Permit Required. No person shall conduct any musical concert, play upon any amplified

instrument or set up or use any communications system in a park without first obtaining an official permit from the Parks and Recreation Director.

18. Group Functions; Permit Required. No person shall hold or attempt to hold any meeting, assembly, demonstration, celebration, parade, rally, religious workshop or any sponsored entertainment, social, recreational or organized athletic function, without first obtaining an official permit from the Parks and Recreation Director.

47.02 PERMITS TO BE PRODUCED AND EXHIBITED. No person who is required by the Parks and Recreation Director to have an official permit shall fail to produce the permit and exhibit it upon request of the Director, Commission member, police officer or any employee of the Parks and Recreation Department.

47.03 FEES FOR PARK USE. The Parks and Recreation Commission shall set all park fees, subject to the approval of the Council.

47.04 CAMPING AREAS. Camping areas are reserved for bona fide recreational campers. Should the designated camping areas be overcrowded, the Parks and Recreation Director shall be empowered to limit the number of nights a given camper may remain in the camping areas.

47.05 PARK HOURS. No person, except those camping in designated areas or holding gatherings approved by the Parks and Recreation Director, shall enter or remain within any park between the hours of 11:00 p.m. and 7:00 a.m.

47.06 PENALTY FOR VIOLATIONS; APPEALS. Violation of any ordinance of the City or of a commission rule which has been approved by the Council shall be cause for denial of the use of the public park facilities or participation in any parks and recreation program, but such a denial which extends more than one day may be appealed to the Parks and Recreation Commission for a hearing. Any violations of an ordinance governing the usage of the City parks may be prosecuted as a misdemeanor.

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CHAPTER 48

RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

48.01 Purpose

48.02 Definitions

48.03 Residency Restriction

48.04 Residency Exception

48.05 Violations

48.01 PURPOSE. This chapter is a regulatory measure aimed at protecting the health and safety of children in Indianola from the risk that convicted sex offenders may reoffend in locations close to their residences. As recognized by the Eighth Circuit United States Court of Appeals in its April 29, 2005, decision of Doe v. Miller, and as recognized by the Iowa Supreme Court in State v. Seering, decided on July 29, 2005, the City finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and day care centers. The City finds and declares that, in addition to schools and daycare centers, children congregate or play at child oriented facilities identified in Section 48.03(1).

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

1. "Aggravated offense" means a conviction for any of the following offenses:

   A. Sexual abuse in the first degree in violation of Iowa Code Section 709.2.

   B. Sexual abuse in the second degree in violation of Iowa Code Section 709.3.

   C. Sexual abuse in the third degree in violation of Iowa Code Section 709.4. subsection 1.

   D. Lascivious acts with a child in violation of Iowa Code Section 709.8, subsection 1.

E. Assault with intent to commit sexual abuse in violation of Iowa Code Section 709.11.

F. Burglary in the first degree in violation of Iowa Code Section 713.3, subsection 1, paragraph “d”.

G. Kidnapping, if sexual abuse as defined in Iowa Code Section 709.1 is committed during the offense.

H. Murder, if sexual abuse as defined in Iowa Code Section 709.1 is committed during the offense.

I. Criminal transmission of human immunodeficiency virus in violation of Iowa Code Section 709C.1, subsection l, paragraph “a”.

2. “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 contact 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 Iowa Code Section 728.2.

K. Admitting minors to premises where obscene material is exhibited in violation of Iowa Code Section 728.3.

L. Stalking in violation of Iowa Code Section 708.11, subsection 3, paragraph "b", subparagraph (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 Iowa Code Section 728.12.

N. Enticing away a minor in violation of Iowa Code Section 710.10, subsection 1.

O. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs A through N.

3. "Other relevant offense" means any of the following offenses:

A. Telephone dissemination of obscene materials in violation of Iowa Code Section 728.15.

B. Rental or sale of hard-core pornography in violation of Iowa Code Section 728.4.

C. Indecent exposure in violation of Iowa Code Section 709.9.

D. Incest committed against a dependent adult as defined in Iowa Code Section 235B.2 in violation of Iowa Code Section 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.

4. "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.

5. "Residence" means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

6. "Sexually violent offense" means any of the following indictable offenses:

A. Sexual abuse as defined under Iowa Code Section 709.1.

B. Assault with intent to commit sexual abuse in violation of Iowa Code Section 709.11.

C. Sexual misconduct with offenders in violation of Iowa Code Section 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.

48.03 RESIDENCY RESTRICTION.

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

A. A public park;

B. A public swimming pool;

C. A public library; or

D. A multi-use recreational trail.

2. The distance shall be measured from the closest boundary line of the residence to the closest boundary line of the child oriented facilities identified in subsection 1.

48.04 RESIDENCY EXCEPTION. A person residing within two thousand (2,000) feet of the real property comprising a child oriented facility identified in Section 48.03 (1) does not commit a violation of this chapter if any of the following apply:

1. The person is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility.

2. The person is subject to an order of commitment under Chapter 229A of the Iowa Code.

3. The person has established a residence prior to the effective date of this chapter (November 16, 2005), or a child oriented facility as identified in Section 48.03 (1) is newly located on or after the effective date of this chapter (November 16, 2005) and the person has established a residence prior to the date of the start of construction of such newly located child oriented facility.

4. The person is a minor or ward under a guardianship.

48.05 VIOLATIONS. Any person who resides within two thousand (2,000) feet of the real property comprising a child oriented facility identified in Section 48.03(1) in violation of this chapter shall be guilty of a misdemeanor punishable by fine or imprisonment as provided by law or shall be guilty of a municipal infraction punishable by a civil penalty as provided by law.

(Chapter 48 - Ord. 1343 – Feb. 06 Supp.)

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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 62.09)**

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.

13. Water Discharge. All storm water including roof drains and any sump pump discharge shall not discharge any closer than 5 feet to a property line or any public right-of-way. ***(Ord. 1411 – Aug. 08 Supp.)***

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. Drug Paraphernalia *(See Chapter 43)*

3. Storage and Disposal of Solid Waste *(See Chapter 105)*

4. Junk Yards *(See Chapter 124)*

5. Trees and Other Plantings in Parkings *(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.

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])

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†**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.

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 (1) 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.

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

2. "Junk vehicle" means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:

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

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

C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, 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:

1. Within a garage or other enclosed structure; or

2. On the premises of a business enterprise operated in a district properly zoned therefor, when necessary to the operation of said business enterprise, as authorized under the Zoning Ordinance of the City; or

3. In an appropriate storage space or depository maintained in a lawful place and lawful manner by 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 five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions

55.02 Animal Neglect

55.03 Livestock Neglect

55.04 Abandonment of Cats and Dogs

55.05 Livestock

55.06 Bee Keeping

55.07 Bird Sanctuary

55.08 At Large Prohibited

55.09 Damage or Interference

55.10 Annoyance or Disturbance

55.11 Animal Wastes

55.12 Rabies Vaccination

55.13 Owner's Duty

55.14 Confinement

55.15 At Large: Impoundment

55.16 Authorized Off-Leash Dog Park

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

1. "Animal" means a nonhuman vertebrate.

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

2. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel. A dog is not at large if it is in the confines of a City-owned off-leash dog park provided that such dog and its handler are at all times in compliance with all the rules for such park. ***(Ord. 1408 – Aug***

3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.

(Code of Iowa, Sec. 717.1)

4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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 BEE KEEPING. Bee keeping shall be allowed with the following restrictions:

1. Allowed in residential and agricultural zoning classifications.

2. Minimum lot size of .5 acres.

3. Maximum number of 4 hives in residential and 10 hives in agriculture zoning classifications.

4. Hives shall be located in the rear yard and a minimum of 10' from property line.

5. A flight path barrier consisting of a fence, structure or planting not less than 6' in height located in front of the hive.

(Ord. 1517 – Aug. 13 Supp.)

55.07 BIRD SANCTUARY. The entire area embraced within the corporate limits of the City is hereby designated as a bird sanctuary. It is unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird or wild fowl nests. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality so that they constitute a nuisance or menace to health or property in the opinion of the Mayor, then in such event the Mayor may meet with the representatives of the Audubon Society, Bird Club, Garden Club or Humane Society with the objective of properly abating the existing nuisance. If as a result of said meeting no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by the Mayor under the supervision of the Police Chief.

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

55.09 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.

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

55.11 ANIMAL WASTES. The owner or caretaker of every animal shall remove all wastes deposited by such animal on public or private property. This section does not apply to property owned by the owner or caretaker of the animal. Animals in violation of this section are subject to impoundment.

55.12 RABIES VACCINATION. Every owner of a cat and/or dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have in said person's possession a cat three months of age or over or a dog 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)

55.13 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)

55.14 CONFINEMENT. When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it 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 two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec. 351.39)

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

55.16 AUTHORIZED OFF-LEASH DOG PARK.

1. There is hereby established an off-leash dog park on real estate locally known as Downey Memorial Park.

2. The Indianola Park and Recreation Commission is hereby authorized to establish rules for the use of the off-leash dog park and to amend them from time to time as necessary. Said rules are incorporated into this section as if fully setforth herein and a violation thereof shall constitute a municipal infraction. ***(Ord. 1408 – Aug. 08 Supp.)***

CHAPTER 56

DANGEROUS OR VICIOUS ANIMALS

56.01 Definitions

56.02 Keeping of Dangerous Animals Prohibited

56.03 Seizure, Impoundment and Disposition of Dangerous Animals

56.04 Keeping of Vicious Animals Prohibited

56.05 Seizure, Impoundment and Disposition of Vicious Animals

56.01 DEFINITIONS. As used in this chapter, the following words and terms have the meanings ascribed thereto:

1. "Animal" means every wild, tame or domestic member of the animal kingdom which is a non-human vertebrate.

2. "Dangerous animal" means (i) any animal which is not naturally tame or gentle and which is of a wild nature or disposition and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (ii) any animals declared to be dangerous by the Council or its designee; or (iii) the following animals, which are deemed to be dangerous animals per se:

A. Wolves and coyotes;

B. Badgers, wolverines, weasels, mink, and other Mustelids (except ferrets);

C. Bears;

D. All apes (including chimpanzees), baboons, and macaques.

E. Monkeys, except the squirrel monkey, female spider monkey, and female wooly monkey.

F. Elephants.

G. Wild boar.

H. Black widow spiders and scorpions.

I. Snakes which are naturally venomous or poisonous, with the exceptions stated in Section 56.02.

J. All cats, except domestic cats (*Carnivora* of the family *Felidae* including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.)

K. Raccoons, opossums, and skunks.

3. "Owner" or "owner of an animal" means any person or persons, firm, association or corporation, owning, keeping, sheltering or harboring an animal.

4. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that, while running at large, has attacked or bitten any person without provocation, or any animal that has exhibited vicious propensities, in present or past conduct:

A. By biting a person or persons on two (2) separate occasions within a twelve-month period; or

B. Did bite once causing injuries above the shoulders of the person; or

C. Could not be controlled or restrained by the owner at the time of the bite to prevent the occurrence; or

D. Has attacked or bitten any domestic animal or fowl on two separate occasions within a twelve-month period; or

E. Which has been found to possess such a propensity by the Council, after hearing.

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

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

2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit or show where such circus carnival exhibit or show is of a traveling nature, is displayed before large assemblages of people, and maintains any and all required Federal or State licenses.

3. The keeping of dangerous animals in a bona fide licensed veterinary hospital for treatment.

4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the State Department of Natural Resources.

5. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

6. Venomous reptiles must be kept within a structure and housed in a suitable manner as outlined by the Iowa Herpetological Society. Any venomous reptile found at large may be processed as a dangerous animal pursuant to the provisions of this chapter. Any premises where venomous reptiles are housed shall be prominently posted with a sign containing the wording "Venomous Reptiles," "Poisonous Reptiles," or words of similar import and the owner of such premises shall inform the Indianola Police Department, in writing, by certified mail, within thirty (30) days of the acquisition of a venomous reptile, that a venomous reptile is or will be on such premises.

7. Nothing in this chapter shall in any manner prohibit any individual deemed fully qualified and licensed under the United States Department of Agriculture and the United States Department of Interior from appearing before the Council for special and specific permission to keep for research, education, or reproductive reasons any animal considered herein to be regarded as dangerous or not listed in any particular part of this chapter.

8. While constricting snakes exceeding six (6) feet in length, and lizards exceeding two (2) feet in length are not declared by this chapter to be dangerous, the owners of such animals, within two (2) hours of knowledge of the possibility of

such an animal being "at large" within the community, shall so notify the Police Department of the City.

56.03 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal 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 person or property, such animal may, in the discretion of the Indianola Police Department, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the written complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises located in the City, the Indianola Police Department shall cause the matter to be investigated, and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the Indianola Police Department shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed under Section 56.02 of this chapter to possess dangerous animals, or destroy the animal, within three (3) days of the receipt of such 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 the 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 Indianola Police Department shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

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

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

5. If the Council affirms the action of the Indianola Police Department, 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, permanently place such animal with an organization or group allowed under section 56.02 of this chapter to possess dangerous animals, 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 Indianola Police Department 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 Indianola Police Department is authorized to seize and impound such dangerous 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 against whom the decision and order of the Council was issued has not petitioned the Warren County District Court for a review of such order, the City shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under section 56.02 of this chapter to possess dangerous animals, or destroy such animal in humane manner.

56.04 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.

2. The keeping of guard dogs; however, guard dogs must be kept within a structure of fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the words “Guard Dog,” “Vicious Dog,” or words of similar import, and the owner of such premises shall inform the Indianola Police Department that a guard dog is on duty at such premises.

56.05 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

1. The Indianola Police Department, in its discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined herein, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Council. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than seventy-two (72) hours' written notice of the time and place of the hearing. Such notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner will be required to have the animal humanely destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

(Ord. 1388 – Feb. 08 Supp.)

2. If, after hearing, the Council determines that an animal is vicious, the Council shall order the person owning, sheltering, harboring, or keeping the animal to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the Indianola Police Department is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity against whom the order of the Council was issued has not petitioned the Warren County District Court for a review of the order, the Indianola Police Department shall cause the animal to be destroyed.

(Ord. 1388 – Feb. 08 Supp.)

3. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the Indianola Police Department may immediately destroy it. If its ownership is not ascertainable, the Indianola Police Department may destroy it after three (3) days of impoundment.

4. Any animal which is alleged to be vicious and which is under impoundment or quarantine, shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the City.

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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 "Indianola 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 Traffic Code 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 City Manager. 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 Compliance

61.03 Crosswalks

61.04 Traffic Lanes

61.05 Necessity of Signs

61.06 Moving or Damaging Devices

61.07 Standards

61.01 TRAFFIC CONTROL DEVICES. The Council shall establish by ordinance, and cause to be placed and maintained, appropriate traffic control devices to designate 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, special speed zones, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power to designate and indicate by ordinance 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. A record of all such traffic control devices is contained in the Appendix of this Code of Ordinances.

61.02 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)

61.03 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 road-way, and at such other places as traffic conditions require.

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

61.04 TRAFFIC LANES. Where traffic lanes have been marked on street pavements at such places as traffic conditions require, it shall be 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)

61.05 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.

61.06 MOVING OR DAMAGING DEVICES. It is unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic control device placed upon the streets of the City.

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 Funeral Processions

62.07 Tampering with Vehicle

62.08 Open Containers in Motor Vehicles

62.09 Obstructing View at Intersections

62.10 Reckless Driving

62.11 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 321.20B – Proof of security against liability.

3. Section 321.32 – Registration card, carried and exhibited.

4. Section 321.37 – Display of plates.

5. Section 321.38 – Plates, method of attaching, imitations prohibited.

6. Section 321.79 – Intent to injure.

7. Section 321.91 – Penalty for abandonment.

8. Section 321.98 – Operation without registration.

9. Section 321.99 – Fraudulent use of registration.

10. Section 321.174 – Operators licensed.

11. Section 321.174A – Operation of motor vehicles with expired license.

12. Section 321.180 – Instruction permits.

13. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.

14. Section 321.193 – Restricted licenses.

15. Section 321.194 – Special minor's licenses.

16. Section 321.216 – Unlawful use of license and nonoperator's identification card.

17. Section 321.216B – Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.

18. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.

19. Section 321.219 – Permitting unauthorized minor to drive.

20. Section 321.220 – Permitting unauthorized person to drive.

21. Section 321.221 – Employing unlicensed chauffeur.

22. Section 321.222 – Renting motor vehicle to another.

23. Section 321.223 – License inspected.

24. Section 321.224 – Record kept.

25. Section 321.232 – Radar jamming devices; penalty.

26. Section 321.234A – All-terrain vehicles.

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 321.262 – Damage to vehicle.

31. Section 321.263 – Information and aid.

32. Section 321.264 – Striking unattended vehicle.

33. Section 321.265 – Striking fixtures upon a highway.

34. Section 321.275 – Operation of motorcycles and motorized bicycles.

35. Section 321.278 – Drag racing prohibited.

36. Section 321.288 – Control of vehicle; reduced speed.

37. Section 321.295 – Limitation on bridge or elevated structures.

38. Section 321.297 – Driving on right-hand side of roadways; exceptions.

39. Section 321.298 – Meeting and turning to right.

40. Section 321.299 – Overtaking a vehicle.

41. Section 321.302 – Overtaking on the right.

42. Section 321.303 – Limitations on overtaking on the left.

43. Section 321.304 – Prohibited passing.

44. Section 321.306 – Roadways laned for traffic.

45. Section 321.307 – Following too closely.

46. Section 321.308 – Motor trucks and towed vehicles; distance requirements.

47. Section 321.309 – Towing; convoys; drawbars.

48. Section 321.310 – Towing four-wheel trailers.

49. Section 321.312 – Turning on curve or crest of grade.

50. Section 321.313 – Starting parked vehicle.

51. Section 321.314 – When signal required.

52. Section 321.315 – Signal continuous.

53. Section 321.316 – Stopping.

54. Section 321.317 – Signals by hand and arm or signal device.

55. Section 321.319 – Entering intersections from different highways.

56. Section 321.320 – Left turns; yielding.

57. Section 321.321 – Entering through highways.

58. Section 321.322 – Vehicles entering stop or yield intersection.

59. Section 321.323 – Moving vehicle backward on highway.

60. Section 321.324 – Operation on approach of emergency vehicles.

61. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.

62. Section 321.330 – Use of crosswalks.

63. Section 321.332 – White canes restricted to blind persons.

64. Section 321.333 – Duty of drivers.

65. Section 321.340 – Driving through safety zone.

66. Section 321.341 – Obedience to signal of train.

67. Section 321.342 – Stop at certain railroad crossings; posting warning.

68. Section 321.343 – Certain vehicles must stop.

69. Section 321.344 – Heavy equipment at crossing.

70. Section 321.344B – Immediate safety threat – penalty.

71. Section 321.354 – Stopping on traveled way.

72. Section 321.359 – Moving other vehicle.

73. Section 321.362 – Unattended motor vehicle.

74. Section 321.363 – Obstruction to driver's view.

75. Section 321.364 – Preventing contamination of food by hazardous material.

76. Section 321.365 – Coasting prohibited.

77. Section 321.367 – Following fire apparatus.

78. Section 321.368 – Crossing fire hose.

79. Section 321.369 – Putting debris on highway.

80. Section 321.370 – Removing injurious material.

81. Section 321.371 – Clearing up wrecks.

82. Section 321.372 – School buses.

83. Section 321.381 – Movement of unsafe or improperly equipped vehicles.

84. Section 321.381A – Operation of low-speed vehicles.

85. Section 321.382 – Upgrade pulls; minimum speed.

86. Section 321.383 – Exceptions; slow vehicles identified.

87. Section 321.384 – When lighted lamps required.

88. Section 321.385 – Head lamps on motor vehicles.

89. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

90. Section 321.387 – Rear lamps.

91. Section 321.388 – Illuminating plates.

92. Section 321.389 – Reflector requirement.

93. Section 321.390 – Reflector requirements.

94. Section 321.392 – Clearance and identification lights.

95. Section 321.393 – Color and mounting.

96. Section 321.394 – Lamp or flag on projecting load.

97. Section 321.395 – Lamps on parked vehicles.

98. Section 321.398 – Lamps on other vehicles and equipment.

99. Section 321.402 – Spot lamps.

100. Section 321.403 – Auxiliary driving lamps.

101. Section 321.404 – Signal lamps and signal devices.

102. Section 321.404A – Light-restricting devices prohibited.

103. Section 321.405 – Self-illumination.

104. Section 321.406 – Cowl lamps.

105. Section 321.408 – Back-up lamps.

106. Section 321.409 – Mandatory lighting equipment.

107. Section 321.415 – Required usage of lighting devices.

108. Section 321.417 – Single-beam road-lighting equipment.

109. Section 321.418 – Alternate road-lighting equipment.

110. Section 321.419 – Number of driving lamps required or permitted.

111. Section 321.420 – Number of lamps lighted.

112. Section 321.421 – Special restrictions on lamps.

113. Section 321.422 – Red light in front.

114. Section 321.423 – Flashing lights.

115. Section 321.430 – Brake, hitch and control requirements.

116. Section 321.431 – Performance ability.

117. Section 321.432 – Horns and warning devices.

118. Section 321.433 – Sirens, whistles and bells prohibited.

119. Section 321.434 – Bicycle sirens or whistles.

120. Section 321.436 – Mufflers, prevention of noise.

121. Section 321.437 – Mirrors.

122. Section 321.438 – Windshields and windows.

123. Section 321.439 – Windshield wipers.

124. Section 321.440 – Restrictions as to tire equipment.

125. Section 321.441 – Metal tires prohibited.

126. Section 321.442 – Projections on wheels.

127. Section 321.444 – Safety glass.

128. Section 321.445 – Safety belts and safety harnesses – use required.

129. Section 321.446 – Child restraint devices.

130. Section 321.449 – Motor carrier safety regulations.

131. Section 321.450 – Hazardous materials transportation.

132. Section 321.454 – Width of vehicles.

133. Section 321.455 – Projecting loads on passenger vehicles.

134. Section 321.456 – Height of vehicles; permits.

135. Section 321.457 – Maximum length.

136. Section 321.458 – Loading beyond front.

137. Section 321.460 – Spilling loads on highways.

138. Section 321.461 – Trailers and towed vehicles.

139. Section 321.462 – Drawbars and safety chains.

140. Section 321.463 – Maximum gross weight.

141. Section 321.465 – Weighing vehicles and removal of excess.

142. 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 FUNERAL PROCESSIONS. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

(Code of Iowa, Sec. 321.324A)

62.07 TAMPERING WITH VEHICLE. It is unlawful for any person, either individually or in association with one or more other persons, to willfully 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.

62.08 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.

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

62.10 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)

62.11 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.

CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – twenty (20) miles per hour.

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

3. Suburban District – forty-five (45) miles per hour.

63.03 PARKS, CEMETERIES AND PARKING LOTS. A speed in excess of ten (10) miles per hour in any public park or fifteen (15) miles per hour in any public cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

63.04 SPECIAL SPEED RESTRICTIONS. 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. A speed in excess of any designated and posted special speed zone is unlawful.

(Code of Iowa, Sec. 321.290)

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)

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-turns

64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district, at intersections where there are automatic traffic signals and at any intersection where a sign prohibiting a U-turn is posted.

(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 Through Streets – Stop

65.02 Stop Intersections

65.03 Yield Intersections

65.04 School Stops

65.05 Stop Before Crossing Sidewalk

65.06 Stop When Traffic Is Obstructed

65.07 Yield to Pedestrians in Crosswalks

65.08 Official Traffic Controls

65.01 THROUGH STREETS - STOP. Every driver of a vehicle shall stop, unless a yield is permitted, before entering an intersection with a designated through street.

(Code of Iowa, Sec. 321.345)

65.02 STOP INTERSECTIONS. Every driver of a vehicle shall stop at those intersections in the City which are designated stop intersections.

65.03 YIELD INTERSECTIONS. Every driver of a vehicle shall yield at those intersections in the City which are designated yield intersections.

65.04 SCHOOL STOPS. At any designated 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)

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

65.08 OFFICIAL TRAFFIC CONTROLS. Every driver of a vehicle shall observe and comply with the directions of official traffic control signals at those intersections regulated by such signals.

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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.

(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 such designated streets or parts of streets.

(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 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, 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, on any designated one-way street, 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 and Trailer Parking Limited

69.10 Snow Emergency

69.11 Snow Routes

69.12 Simpson College Campus Neighborhood Parking

69.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices. 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 those locations designated for angle parking.

(Code of Iowa, Sec. 321.361)

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.

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

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 or within five (5) feet of either side of a public or private driveway. This subsection shall not apply to the square and one block in each direction. ***(Ord. 1455 – Nov. 10 Supp.)***

(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. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.

(Code of Iowa, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

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

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

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

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

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

14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall

be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. Area Between Street and Sidewalk. The area between the street and the sidewalk or the area within fifteen (15) feet of the street if there is no sidewalk.

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

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

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

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

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

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

B. Use by an operator of a motor 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 motor 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 AND TRAILER PARKING LIMITED. No person shall park a motor truck, semi-trailer, or any other type of trailer in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

1. Public Square. No person shall park any truck, any vehicle with a trailer attached, or any unattached trailer on the public square or within one (1) block each way leading from the public square, for longer than a period of thirty (30) minutes at one time; however, trucks may park in the public square for the purpose of loading or unloading of freight or merchandise but only for the length of time that it takes to do the loading or unloading and when the unloading or loading is completed, the truck shall forthwith be removed from the area.

2. Streets. No person shall park any truck, truck trailer or any other trailer on any street of the City for longer than two (2) hours except as provided in subsection 1. No person shall park any truck, truck trailer or any other trailer on any street of the City closer than forty (40) feet from the center of an intersection at any time.

3. Noxious Odors. No person shall park any truck or trailer having about it a noxious or repulsive odor upon the streets or alleys of the City.

(Ord. 1489 – Feb. 12 Supp.)

69.10 SNOW EMERGENCY.

1. No person shall park, abandon or leave unattended any vehicle on any public street, alley or parking areas in the public right-of-way and immediately adjacent to the traveled portion of a street during any snow emergency parking ban unless the snow has been removed or plowed from the street, alley or parking areas in the public right-of-way and immediately adjacent to the traveled portion of a street and the snow has ceased to fall. A snow emergency parking ban shall begin when the National Weather Service predicts that two (2) or more inches of snow or ice will fall in the Indianola area or two (2) or more inches of snow or ice has fallen in the Indianola area, and shall continue through the duration of the snow or ice storm and the forty-eight-hour period after cessation of the storm, except as above provided upon streets which have been fully opened.

2. Such a ban shall be of uniform application, and the Police Chief is directed to widely publicize the requirements, using all available news media, in early November of each year. The emergency shall be extended or shortened when conditions warrant upon proclamation by the City Manager or a designee.

3. The foregoing prohibition shall be modified within the downtown area and near the Simpson College campus as follows:

A. On Howard Street, from Boston Avenue to First Avenue;

B. On Buxton Street, from Boston Avenue to First Avenue;

C. On Ashland Avenue, from First Street to B Street;

D. On Salem Avenue, from First Street to B Street;

E. On B Street, from First Avenue to Boston Avenue;

F. On First Street, from First Avenue to Boston Avenue;

G. On Boston Avenue, from First Street to B Street;

H. On First Avenue, from First Street to B Street;

I. On D Street, from Girard Avenue to Detroit Avenue;

J. On C Street, from Clinton Avenue to Girard Avenue.

K. On Detroit Avenue, from Howard Street to Buxton Street.

4. The foregoing prohibition does not apply to the area described in subsections 3(A) through (H) during normal business hours of 8:00 a.m. to 6:00 p.m. and during evening business hours as defined by the Indianola Chamber of Commerce, and further, during Christmas holiday hours as defined by the Indianola Chamber of Commerce each year. The foregoing prohibition does not apply to the area described in subsections 3(I) through (K) between 8:00 a.m. and 10:00 p.m.

(Ord. 1288 – Aug. 04 Supp.)

69.11 SNOW ROUTES. The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

(Code of Iowa, Sec. 321.236[12])

69.12 SIMPSON COLLEGE CAMPUS NEIGHBORHOOD PARKING. The following street parking areas on both sides of the street shall be exclusively reserved for residents and persons displaying authorized vehicle permits between the hours of 2:00 a.m. and 5:00 a.m.

STREET NAME	**FROM**	**TO**
West Iowa Avenue	North E Street	North Howard Street
East Iowa Avenue	North Howard Street	North Jefferson Way
West Henderson Avenue	North D Street	North Howard Street
East Henderson Avenue	North Howard Street	North 1st Street

West Girard Avenue	North E Street	North Howard Street
East Girard Avenue	North Howard Street	North Jefferson Way
West Franklin Avenue	North Buxton Street	North Howard Street
East Franklin Avenue	North Howard Street	North Jefferson Way
West Euclid Avenue	North Buxton Street	North Howard Street
East Euclid Avenue	North Howard Street	North Jefferson Way
West Detroit Avenue	450 feet west of North E Street	North D Street
East Detroit Avenue	North Howard Street	North Jefferson Way
West Clinton Avenue	North F Street	North Howard Street
East Clinton Avenue	North Howard Street	North Jefferson Way
West Boston Avenue	North F Street	150 feet east of North B Street
North E Street	West Detroit Avenue	West Iowa Avenue
North D Street	West Ashland Avenue	West Iowa Avenue
North C Street	West Ashland Avenue	West Jackson Avenue
North B Street	West Ashland Avenue	West Clinton Avenue
North B Street	West Girard Avenue	West Jackson Avenue
North Buxton Street	West Boston Avenue	West Jackson Avenue
North Howard Street	West Boston Avenue	West Iowa Avenue
North 1st Street	West Boston Avenue	East Iowa Avenue

(Ord. 1523 – Aug. 13 Supp.)

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

(Code of Iowa, Sec. 805. &, 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of fifteen dollars ($15.00) for all violations except snow route parking violations and improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased to twenty dollars ($20.00). The simple notice of a fine for snow route parking violations is thirty-five dollars ($35.00), and 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])

(Ord. 1300 – Nov. 04 Supp.)

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 Seventy-two Hour Period. When any vehicle is left parked for a continuous period of seventy-two (72) hours or more. If the owner is found, the owner shall be given an opportunity to remove the vehicle.

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

5. Impoundment for Accumulated Illegal Parking Fines. When any vehicle is located on public property and has unpaid parking fine(s) older than 60 days from the date of the parking ticket issuance, the vehicle will be towed and impounded until such time that all fines are paid in full as hereafter provided.

A. Towing and impoundment of such vehicles will only occur 10 or more days after a Notice of Delinquent Fines/Impoundment Warning is mailed by ordinary mail to the last known address of the registered owner.

B. Partial payments will not be accepted for parking fines.

6. 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])

(Ord. 1427 – Sep. 09 Supp.)

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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) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than eight hundred fifty (850) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.

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

2. "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.

(Ord. 1346 – Feb. 06 Supp.)

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV 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, numbering, equipment and manner of operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1& 2A])

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

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

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[h])

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

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

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

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars ($1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

(Ch. 75 - Ord. 1306 – Nov. 04 Supp.)

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Single File and 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 SINGLE FILE AND TWO ABREAST LIMIT. Bicycles shall not be ridden more than in single file in the Business District and upon sidewalks in residential districts and not over two abreast elsewhere 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. Public Square and School Premises. No person shall ride a bicycle upon a sidewalk within the public square or upon the sidewalks adjoining any school premises.

(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, upon meeting pedestrians, shall either dismount until such person has passed the pedestrian or leave the sidewalk at least fifteen (15) feet before passing the pedestrian and not return to the sidewalk until at least fifteen (15) feet beyond the pedestrian.

(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 three hundred (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 three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

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

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 77

BICYCLE LICENSING

77.01 License Required

77.02 Time for Registration

77.03 Examination; Fee; Issuance of License

77.04 Transfer

77.05 Lost License Plates

77.06 Alteration

77.07 Revocation

77.01 LICENSE REQUIRED. No person shall ride or operate a bicycle upon a street, alley or any public place in the City unless such person has caused the ownership of the bicycle to be registered in the office of the Clerk.

77.02 TIME FOR REGISTRATION. The registration of bicycles shall be for a one-year period, beginning with the first day of January of each year. Registrations and licensing may be made for the balance of any registration period at any time.

77.03 EXAMINATION; FEE; ISSUANCE OF LICENSE. Upon the registration of a bicycle as required by this chapter, the passage of an examination as to the owner's knowledge of the law regulating the operation of bicycles in the City and the payment of two dollars ($2.00), the Clerk shall issue a license tag which shall be permanently attached and displayed at the rear of the licensed bicycle.

77.04 TRANSFER. In the event a bicycle licensed under this chapter is sold or transferred, the license tag shall pass to the new owner or transferee, and the sale or transfer of the bicycle shall be reported to the Clerk at City Hall by the former owner within five (5) days after the sale or transfer of the bicycle. The Clerk shall make a record of the sale or transfer, together with the name of the new owner or transferee of the bicycle.

77.05 LOST LICENSE PLATES. In the event that an owner loses a license tag issued pursuant to this chapter, or if it is destroyed or stolen, the owner shall report this fact immediately to the Clerk, who shall then issue to the owner a new license tag at the cost of one dollar ($1.00).

77.06 ALTERATION. It is unlawful for any person to alter or counterfeit any license tag issued in conformity with this chapter.

77.07 REVOCATION. The Mayor or any magistrate may revoke or suspend for a period not to exceed six (6) months any license issued pursuant to this chapter to any person for any violation of any of the provisions of this chapter or of Chapter 76, after a proper hearing.

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 twenty dollars ($20.00) if claimed within five (5) days of impounding, plus five dollars ($5.00) per day, plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

(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])

(Chapter 80 - Ord. 1347 – Feb. 06 Supp.)

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions

81.02 Warning Signals

81.03 Obstructing Streets

81.04 Crossing Maintenance

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

1. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

2. "Operator" means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

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

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.

2. Avoid Striking. When necessary to avoid striking any object or person on the track.

3. Disabled. When the train is disabled.

4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

5. In Motion. When the train is in motion except while engaged in switching operations.

6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 BOARD OF TRUSTEES. The management of the City's Waterworks Utility is the responsibility of the Utilities Board of Trustees established and operated as described in Chapter 25 of this Code of Ordinances.

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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 (20) degrees 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 twenty-four (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 Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and 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 three hundred (300) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City

sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee

96.03 Plumber Required

96.04 Connection Requirements

96.05 Sewer Tap

96.06 Inspection Required

96.07 Property Owner's Responsibility

96.08 Abatement of Violations

96.09 Main Interceptor Connection Charge

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. There are two (2) classes of building sewer permits:

1. For residential and commercial service; and

2. For service to establishments producing industrial waste.

A permit and inspection fee of one hundred dollars ($100.00) for a residential or commercial building sewer permit when a wye is available in the public sewer for connection of the building sewer, and two hundred dollars ($200.00) when a wye is not available in the public sewer for connection of the building sewer, and three hundred dollars ($300.00) for an industrial building sewer permit shall be paid to the City at the time the application is filed. In the event a portion of the sanitary sewer service line is replaced, a permit and inspection fee of twenty dollars ($20.00) is required. ***(Ord. 1202 – Aug. 01 Supp.)***

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber licensed by the City. The Council shall have the power to suspend or revoke the license of any plumber for violation of any of the provisions of these Sanitary Sewer chapters.

96.04 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the Uniform Plumbing Code, the laws of the State and other applicable rules and regulations of the City.

96.05 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.

96.06 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the Uniform Plumbing Code.

96.07 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.

96.08 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.

96.09 MAIN INTERCEPTOR CONNECTION CHARGE.

1. No connection shall be made to the main interceptor line or contribution of sewage to the interceptor line located in easement described as follows:

Segment 1: Beginning at a point on the centerline of East Iowa Avenue 630.0 feet N 88º 13' W of the southeast quarter, Section 19, Township 76 North, Range 23 West, of the fifth principal meridian, Iowa, thence N 0º 01' E along the east right-of-way line of the proposed North 14th Street a distance of 1,403.9 feet, thence N 89º 35' W a distance of 20 feet, thence S 0º 01' W a distance of 1,403.9 feet to the centerline of East Iowa, thence S 89º 35' W to the point of beginning;

Segment 2: Beginning at a point that is 492.5 feet west and 170.0 feet north of the northeast corner, Section 30, Township 76 North, Range 23 West, fifth principal meridian, Iowa, thence north 1,054.0 feet to the south right-of-way line of east Iowa Avenue, thence west a distance of 20.0 feet, thence south a distance of 1,054.0 feet, thence east a distance of 20.0 feet to the point of beginning;

Segment 3: Beginning at a point that is 492.5 feet west and 170 feet north of the northeast corner, Section 30, Township 76 North, Range 23 West, fifth principal meridian of Iowa, thence west 20 feet, thence south a distance of 1,086.5 feet, thence S 0º 20' W a distance of 413.5 feet, thence S 69º 20' E a distance of 20.0 feet, thence N 0º 20' E a distance of 413.9 feet, thence north a distance of 1,086.5 feet to the point of beginning, said last point being on the section line, on the northeast corner of the Easton Park Subdivision, and on the east right-of-way line of the proposed North 14th Street;

without first making payment of a connection charge as required herein.

2. The connection charge is one and three tenths cents ($0.013) per square foot for each square foot of property in the platted lot which the connection is to serve. In the event that connection is requested in an unplatted area, the connection charge shall be one and three tenths cents ($0.013) per square foot for the total square footage owned by the party requesting the connection that is located within the service area as described in subsection 3(A) hereof. If the connection will serve an unplatted area for which a charge is to be made pursuant to subsection 3(B) hereof a charge of one and three tenths cents ($0.013) per square foot shall be made for the unplatted area to be served by the connection.

3. The service area for which the connection fee as described above shall be payable is described as follows:

A. Lots 6, 7, 8, 9, 10, 11 and 12, Block 4; Lots 13, 14, 15, 16 and 17, Block 6; and Lots 6 and 7, Block 2, Easton Park Addition to the City of Indianola; and

Beginning at the southeast corner of the southeast quarter [of the] northeast quarter, Section 19, Township 76 North, Range 23 West, of the fifth principal meridian, thence west 840 feet, thence north 300 feet, thence east 840 feet, thence south 300 feet to the point of beginning; and

The east 840 feet of the northeast quarter [of the] southeast quarter, Section 19, Township 76 North, Range 23 West, of the fifth principal meridian; and the west 340 feet of the east 760 feet of the southeast quarter [of the] southeast quarter, Section 19, Township 76 North, Range 23 West, of the fifth principal meridian, except that part thereof located in Easton Park Addition to the City of Indianola, Iowa; and

A portion of the southeast quarter [of the] southeast quarter, Section 19, Township 76 North, Range 23 west, of the fifth principal meridian, described as beginning at the northeast corner of the said quarter section; thence south 150 feet; thence west 420 feet; thence north 150 feet; thence east 420 feet to the point of beginning; and

The west 150 feet of the east 570 feet of the northeast quarter [of the] northeast quarter, Section 30, Township 76 North, Range 23 West, of the fifth principal meridian; and

B. Any other area not included within the above description which may be serviced by a lateral connection onto the interceptor line described in subsection 1 hereof.

4. The above charge shall be in addition to any regular sewer connection or inspection fee charged by the City.

5. The Council reserves the right to increase the square footage charge for connecting onto the interceptor line described on an individual basis where it appears that the party desiring connection will be producing sewage in excess of the average sewage produced per square foot of area in a residential district.

6. In no event shall the City collect more than seventeen thousand six hundred ninety dollars ($17,690.00) under the terms of this section from that portion of the area described above which lies north of Iowa Street. When said amount has been collected, no more connection fee shall be due and payable hereunder from the described area lying north of Iowa Street. In no event shall the City collect more than six thousand six hundred thirty dollars ($6,630.00) under the terms of this section from that portion of the area described above which lies south of Iowa Street. When said amount has been collected, no more connection fees shall be due and payable hereunder for that portion of the described area lying south of Iowa Street.

7. The sums due and payable under the terms of this section for the connection onto the described sanitary interceptor system shall constitute a lien against the real estate described in subsection 3(A) hereof, which lien cannot be released except by a certificate signed by either the Mayor or the Clerk of the showing that payment in accordance with this section has been made. The lien shall be created as soon as this section takes effect in accordance with the provisions hereof and is filed with the office of the Warren County recorder.

8. All money received under this section shall be deposited in a separate and distinct part of the sanitation fund to be known as the “Sewer Connection Fund.”

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges - Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) 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 three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (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 (150) degrees F (65 degrees C).

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

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

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

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

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

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

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

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (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 twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited

98.02 When Required

98.03 Compliance with Regulations

98.04 Permit Required

98.05 Discharge Restrictions

98.06 Maintenance of System

98.07 Systems Abandoned

98.08 Disposal of Septage

98.09 Minimum Lot Area

98.10 Connection to Public Sewer Required

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 an 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.

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 20,000 square feet.

98.10 CONNECTIONS TO PUBLIC SEWER REQUIRED. All owners of residential or commercial/industrial buildings (including accessory structures) situated within the City with private on-site systems that have laterals in need of repair or replacement are hereby required, at the owners' expense, to connect all such systems directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that the public sewer is within three hundred (300) feet of the structure containing the disposal facility.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Purpose

99.02 Definitions

99.03 Applicability

99.04 Basis for Establishing User Charges; Water Meters

99.05 User Charges

99.06 Discharges Increasing City's Treatment Costs to be Paid for by User

99.07 Disposition of Funds

99.08 Review of User Charge System

99.09 Billing for Sewer Service

99.10 Utility Service Discontinued

99.11 Lien for Nonpayment

99.12 Lien Notice

99.01 PURPOSE. It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the City to collect charges from all users who contribute wastewater to the City's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the sewer revenue bond debt for said treatment works.

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

1. "Normal domestic wastewater" means wastewater that has a BOD concentration of not more than 300 milligrams per liter and a suspended solids concentration of not more than 350 milligrams per liter.

2. "Operation and maintenance" means all expenditures during the useful life of the wastewater treatment works for materials, labor, utilities and other items which are necessary for the management and maintenance of the treatment works to achieve the capacity and performance for which such works were designed and constructed.

3. "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. "Replacement," as referred to in this chapter, is provided for under "(d) Improvement Fund" in the sewer revenue bond resolution adopted by the Council on June 5, 1978.

4. "Residential contributor" means any contributor to the City's treatment works whose lot, parcel of real estate or building is used for domestic dwelling purposes only.

5. "Treatment works" means any devices and systems used for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be an integral part of the treatment process or used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste discharged to the municipal sanitary sewer system.

6. "Useful life" means the estimated period during which the treatment works will be operated.

7. "User charge" means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation and maintenance, replacement and retirement of sewer revenue bonds of the treatment works.

8. "Water meter" means a water volume measuring and recording device, furnished and/or installed by the City or furnished and/or installed by a user and approved by the City.

99.03 APPLICABILITY. The user rates established in this chapter apply to all users, regardless of their location, of the City's treatment works. However, the user charge rates established in this chapter do not apply to permanent underground residential sprinkler systems which are separately metered.

99.04 BASIS FOR ESTABLISHING USER CHARGES; WATER METERS. Each user shall pay monthly for the services provided by the City based on said person's use of the

treatment works as determined by water meters acceptable to the City. If a commercial or industrial contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on use of the treatment works as determined by wastewater meters or separate water meters installed and maintained at the contributor's expense, and in a manner acceptable to the City.

99.05 USER CHARGES.

1. User Charges Effective September 1, 2010.

A. Each contributor of normal domestic wastewater shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $7.25 for the first one thousand (1,000) gallons of water and $6.65 for each one thousand (1,000) gallons of water thereafter as determined in Section 99.04. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $7.25.

B. Each contributor of wastewater, the strength of which is greater than normal domestic wastewater, shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $8.31 per one thousand (1,000) gallons of water as determined in Section 99.04. The $8.31 per 1,000 gallon rate is the normal domestic wastewater rate of $6.65 per 1,000 gallons multiplied by a surcharge factor of 1.25. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $8.31.

C. Each contributor who has a residential or commercial footing tile or sump pump connection to the City sanitary sewer system or a leaking sanitary sewer service shall pay an additional user charge as described in the City of Indianola's Infiltration and Inflow Policy. By this reference the City of Indianola's Infiltration and Inflow Policy, as it may be amended from time to time, is hereby incorporated into this subsection and made a part of this chapter as if fully set forth herein.

(Ord. 1467 – May. 11 Supp.)

D. This amendment shall take effect so as to increase sewer service charges for services reflected on the September 1, 2010, billing statement.

2. User Charges Effective September 1, 2011.

A. Each contributor of normal domestic wastewater shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $7.50 for the first one thousand (1,000) gallons of water and $7.45 for each one thousand (1,000) gallons of water thereafter as determined in Section 99.04. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $7.50.

B. Each contributor of wastewater, the strength of which is greater than normal domestic wastewater, shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $9.31 per one thousand (1,000) gallons of water as determined in Section 99.04. The $9.31 per 1,000 gallon rate is the normal domestic wastewater rate of $7.45 per 1,000 gallons multiplied by a surcharge factor of 1.25. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $9.31.

C. Each contributor who has a residential or commercial footing tile or sump pump connection to the City sanitary sewer system or a leaking sanitary sewer service shall pay an additional user charge as described in the City of Indianola's Infiltration and Inflow Policy. By this reference the City of Indianola's Infiltration and Inflow Policy, as it may be amended from time to time, is hereby incorporated into this subsection and made a part of this chapter as if fully set forth herein.

(Ord. 1467 – May. 11 Supp.)

D. This amendment shall take effect so as to increase sewer service charges for services reflected on the September 1, 2011, billing statement.

3. User Charges Effective September 1, 2012.

A. Each contributor of normal domestic wastewater shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $7.75 for the first one thousand (1,000) gallons of water and $8.25 for each one thousand (1,000) gallons of water thereafter as determined in Section 99.04. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $7.75.

B. Each contributor of wastewater, the strength of which is greater than normal domestic wastewater, shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $10.31 per one thousand (1,000) gallons of water as determined in Section 99.04. The $10.31 per 1,000 gallon rate is the normal domestic wastewater rate of $8.25 per 1,000 gallons multiplied by a surcharge factor of 1.25. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $10.31.

C. Each contributor who has a residential or commercial footing tile or sump pump connection to the City sanitary sewer system or a leaking sanitary sewer service shall pay an additional user charge as described in the City of Indianola's Infiltration and Inflow Policy. By this reference the City of Indianola's Infiltration and Inflow Policy, as it may be amended from time to time, is hereby incorporated into this subsection and made a part of this chapter as if fully set forth herein.

(Ord. 1467 – May. 11 Supp.)

D. This amendment shall take effect so as to increase sewer service charges for services reflected on the September 1, 2012, billing statement.

4. User Charges Effective September 1, 2013.

A. Each contributor of normal domestic wastewater shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $8.00 for the first one thousand (1,000) gallons of water and $9.05 for each one thousand (1,000) gallons of water thereafter as determined in Section 99.04. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $8.00.

B. Each contributor of wastewater, the strength of which is greater than normal domestic wastewater, shall pay a user charge rate for operation and maintenance, including replacement and sewer revenue bond debt service, of $11.31 per one thousand (1,000) gallons of water as determined in Section 99.04. The $11.31 per 1,000 gallon rate is the normal domestic wastewater rate of $9.05 per 1,000 gallons multiplied by a surcharge factor of 1.25. Regardless of the charge as calculated, each contributor shall pay a minimum monthly charge of $11.31.

C. Each contributor who has a residential or commercial footing tile or sump pump connection to the City sanitary sewer system or a leaking sanitary sewer service shall pay an additional user charge as described in the City of Indianola's Infiltration and Inflow Policy. By this reference the City of Indianola's Infiltration and Inflow Policy, as it may be amended from time to time, is hereby incorporated into this subsection and made a part of this chapter as if fully set forth herein.

(Ord. 1467 – May. 11 Supp.)

D. This amendment shall take effect so as to increase sewer service charges for services reflected on the September 1, 2013, billing statement.

(Ord. 1459 – Nov. 10 Supp.)

99.06 DISCHARGES INCREASING CITY'S TREATMENT COSTS TO BE PAID FOR BY USER. Any user who discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works, or any user who discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the City.

99.07 DISPOSITION OF FUNDS.

1. Use. The user charge system shall generate adequate annual revenues to pay the costs of:

A. Annual operation and maintenance;

B. Replacement, as defined herein; and

C. Costs associated with sewer revenue bond debt retirement for financing that portion of the treatment works which the City has, by resolution, designated to be paid by the user charge system.

2. Deposit to Accounts. That portion of the total user charge collected which is designated for operation and maintenance, including replacement, shall be deposited in separate nonlapsing funds defined and provided for in said bond resolution, as follows:

A. A fund, referred to in the bond resolution as "(a) Operation and Maintenance Fund" shall be used to defray operation and maintenance costs.

B. A fund, referred to in said bond resolution as "(d) Improvement Fund" shall be used for replacements to the treatment works, as defined

herein. In addition to the requirements of the bond resolution, said improvement fund shall be continued throughout the useful life of the treatment works in the required amounts shown in the bond resolution even though the resolution should become null and void by virtue of the retirement of the bonds or for any other reason.

3. Accounting System to be Maintained. Should the bond resolution become null and void for any reason, the same accounting system for operation and maintenance and replacement will be maintained as set forth in said resolution.

4. Carry Forward of Year-end Balances; Use for Designated Purposes Only; Exception. Fiscal year-end balances shall be carried over to the same funds as provided for in the bond resolution and shall be used for no other purposes than those designated. If revenue is taken from the improvement fund established in the bond resolution for principal and interest payments or for any other purpose, then the revenue will be returned, as stated in said resolution, by either direct payment or from the proceeds from an adjustment in user charges.

99.08 REVIEW OF USER CHARGE SYSTEM. The City shall review the user charge system once every year and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation, maintenance, replacement and sewer revenue bond debt service and that the system continues to provide for the proportional distribution of operation and maintenance costs, including replacement, among users. The City shall notify each user, at least annually, of the user charge rates.

99.09 BILLING FOR SEWER SERVICE. Sewer 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 monthly.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within twenty (20) days of the date of issue.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent (5%) of the amount due shall be added to each delinquent bill.

99.10 UTILITY SERVICE DISCONTINUED. Utility service to delinquent customer shall be discontinued in accordance with the laws of the State and procedures established by the Utilities Board of Trustees.

99.11 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)

99.12 LIEN NOTICE. A lien for delinquent sewer 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. 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 ten (10) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

CHAPTER 100

BENEFITED DISTRICT SEWER CONNECTION CHARGES

100.01 General Provisions

100.02 Definitions

100.03 Connection Charge Required

100.04 Northeast Trunk Sewer

100.05 Southeast Trunk Sewer

100.06 South G Street and West Twelfth Avenue Sewer

100.07 Plainview South Trunk Sewer

100.08 Plainview North Trunk Sewer

100.09 North Jefferson Way (US Hwy 65/69) Trunk Sewer

100.10 West Euclid Avenue Trunk Sewer

100.11 North Highway 65/69 Sanitary Sewer

100.12 Highway 92 West Sewer

100.13 East Highway 92 Sanitary Sewer

100.14 Highway 65/69 Sanitary Sewer

100.15 North Howard Street Sanitary Sewer

100.16 East Hillcrest Sanitary Sewer

100.17 West Highway 92 Sanitary Sewer

100.01 GENERAL PROVISIONS. The purpose of this chapter is to establish sewer connection charges for certain properties within the City to recover the costs of designing and constructing major sanitary sewer facilities from property owners who connect to such facilities subsequent to their construction. In the event the Council determines the necessity of constructing a major sanitary sewer facility and determines that the utilization of a connection charge is the most equitable manner in which to recover the City's costs associated therewith, the Council shall first hold a public hearing on the proposed adoption of an ordinance to establish a benefited district and a connection charge.

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

1. "Benefited district" means that area of the City to which sanitary sewer service can feasibly be provided by a major sanitary sewer facility of a given design and capacity.

2. "Connection" means the act of connecting the building sewer of a residential structure to a lateral sewer or manhole constituting a part of a major sanitary sewer facility, or the act of connecting a lateral sewer serving a subdivision to a trunk sewer or manhole constituting a part of a major sanitary sewer facility.

3. "Major sanitary sewer facility or facilities" means and includes sanitary sewer trunk lines and sanitary sewer interceptors equal to or greater than eight (8) inches in diameter, and sanitary sewer force mains, pumping stations and detention basins.

100.03 CONNECTION CHARGE REQUIRED. After the effective date of the ordinance establishing a benefited district and a connection charge, no owner of property within the district, whose property is eligible for connection to the sanitary sewer facility, shall make such connection until the required connection charge has been paid. The sewer connection charge required by this chapter is in addition to, and not in lieu of, any other fees required under the plumbing code or other provisions of this Code of Ordinances. In the event a property owner makes a connection to the sanitary sewer facility without having paid the required connection charge, the City shall disconnect the building sewer until the required charge has been paid.

100.04 NORTHEAST TRUNK SEWER.

1. The Northeast Trunk Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the Northeast Trunk Sewer Benefited District are as follows:

A tract of land located in parts of Sections 17, 18, 19 and 20 in Township 76 North, Range 23 West of the 5th Principal Meridian, now included in and forming a part of the City of Indianola, Warren County, Iowa, with said tract of land more particularly described as follows:

Beginning at a point 660 feet north and 660 feet east of the southwest corner of Section 17-76-23, said point also being on the current corporate boundary of the City of Indianola, Iowa; thence south along said corporate boundary to a point 1,320 feet south and 660 feet east of the northwest corner of Section 20-76-23; thence westerly to the southeast corner of Hillcrest Industrial Park Plat 1; thence continuing westerly along the south boundary of Hillcrest Industrial Park Plat 1 to the southwest corner of said plat; thence north along the west boundary of said Plat 1 to a point 330 feet south of the north line of Section 19-76-23; thence west and parallel to the north line of said Section 19-76-23, a distance of 1,200 feet; thence north 990 feet; thence east 4,500 feet, more or less, to the point of beginning, except Lots 4 and 5 of Indianola Industrial Park Plat 2, EXCEPT the South 645 feet of the SE ¼ of the SW ¼ of Section 18-76-23. ***(Ord. 1457 – Nov. 10 Supp.)***

3. A connection charge is hereby established and imposed upon the owners of properties within the Northeast Trunk Sewer Benefited District who shall hereafter make application to connect their properties to the sewer. The connection charge for the Northeast Trunk Sewer Benefited District shall be two thousand dollars ($2,000.00) for each acre of property, or pro rated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer.

4. Single-family residences within the Northeast Trunk Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1050 and located within the corporate limits of the City of Indianola, are eligible for

connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one (1) acre in size located within the City and within the benefited district may connect such residences to the northeast trunk sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one (1) acre in size located within the City and within the benefited district may connect such residences to the northeast trunk sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City and within the Northeast Trunk Sewer Benefited District shall be eligible for connection to the northeast trunk sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

100.05 SOUTHEAST TRUNK SEWER.

1. The Southeast Trunk Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the Southeast Trunk Sewer Benefited District are as follows:

An area in Section 31, Township 76 North, Range 23 West of the 5th P.M. located in the City of Indianola, Warren County, Iowa, more particularly described as follows:

The North One-half of the Southwest Quarter (N½ SW¼), except the east three hundred (300.0) feet of the south six hundred (600.0) feet thereof except highway right-of-way in said Section 31 and

The South One-half of the Northwest Quarter (S½ NW¼) of said Section 31 except highway right-of-way, and

The south five hundred sixty (560.0) feet of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) except highway right-of-way in said Section 31, EXCEPT Parcel A in the West One-half of the Northwest Quarter of the Southwest Quarter (W½ NW¼ SW¼), except highway right-of-way in said Section 31, and

Parcel A in the Southwest Quarter of the Northwest Quarter (SW¼ NW¼), except highway right-of-way in said Section 31, and

The south five hundred sixty (560.0) feet of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) except highway right-of-way in said Section 31.

3. A connection charge is hereby established and imposed upon the owners of properties within the Southeast Trunk Sewer Benefited District who shall hereafter make application to connect their properties to the sewer. The connection charge for the Southeast Trunk Sewer Benefited District shall be $660.00 for each acre of property, or pro rated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer.

4. Single family residences within the Southeast Trunk Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1098, and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City and within the benefited district may connect such residences to the Southeast Trunk Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City and within the benefited district may connect such residences to the Southeast Trunk Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City and within the Southeast Trunk Sewer Benefited District shall be eligible for connection to the Southeast Trunk Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for

development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

100.06 SOUTH G STREET AND WEST TWELFTH AVENUE SEWER.

1. The South G Street and West Twelfth Avenue Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the South G Street and West Twelfth Avenue Sewer Benefited District are as follows:

Zone 1

An area in the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of Section 25, Township 76 North, Range 24 West of the 5th Principal Meridian platted as Auditor's Outlots 125, 126 and 129; and area in Freeman Subdivision and Parker Southview Subdivision and that part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) not platted into lots in Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian; and that part of Lot 4 in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian; and Lot 1 and that part of Lot 2 in the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) of Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian, now included in and forming a part of the City of Indianola, Warren County, Iowa, more particularly described as follows:

Beginning at a point one thousand five hundred six and seventy-five hundredths (1,506.75) feet north of the northwest corner of the Northeast Quarter of the Northwest Quarter of Section 36, Township 76 North, Range 24 West; thence southerly three thousand four hundred eighty-four and fifty-six hundredths (3,484.56) feet along the east line of the Northeast Quarter and the Northwest Quarter of said Section 36; thence westerly three hundred twenty (320) feet along the south lot line of Lot 2 in the Southwest Quarter of the Northwest Quarter of Section 36,

Township 76 North, Range 24 West; thence northerly one thousand four and sixty-nine hundredths (1,004.69) feet along a line parallel to the west right-of-way line of South G Street; thence easterly one hundred seventy-five and thirty-two hundredths (175.32) feet along the centerline of West 12th Street; thence northerly three hundred thirty-two and eighty-four hundredths (332.84) feet along the west lot line of Lots 1 and 2 of Parker Southview Subdivision; thence westerly one hundred sixty-five (165) feet along the north property line of Parker Southview Subdivision, thence northerly seven hundred seventy-two (772) feet along a line parallel to the west right-of-way line of South G Street; thence easterly ten (10) feet along the north lot line of Lot 1, Freeman's Subdivision, thence northerly one thousand three hundred sixteen and twenty-five hundredths (1,316.25) feet along a line parallel to the west right-of-way line of South G Street; thence easterly three hundred twenty (320) feet to the point of beginning.

Zone 2

Parcel "A" of Lot 3, Block 3 of Wesley Cheshire Addition and an area in the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section 25, Township 76 North, Range 24 West of the 5th Principal Meridian not platted into lots and that part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian platted as Parcels "E", "F", "G" and "H", Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian not platted into lots and that part of the south 10 acres of the north 19 acres of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian platted as a lot, now included in and forming a part of the City of Indianola, Warren County, Iowa, more particularly described as follows:

Beginning at a point one thousand four hundred forty-eight and two tenths (1,448.2) feet north of the northwest corner of the Northeast Quarter of the Northwest Quarter of Section 36, Township 76 North, Range 24 West; thence easterly three hundred thirty (330) feet along the north lot line of Parcel "A", Lot 3, Block 3 of Wesley Cheshire Addition; thence southerly one hundred ten (110) feet

along a line parallel to the east right-of-way line of South G Street; thence westerly twenty (20) feet along the north line of the Southeast Quarter of the Southwest Quarter of Section 25, Township 76 North, Range 24 West; thence southerly six hundred sixty-seven and six tenths (667.6) feet parallel to the east right-of-way line of South G Street; thence easterly twenty (20) feet along a line parallel to the north lot line of Parcel "F", City of Indianola; thence southerly four hundred six and six tenths (406.6) feet along a line parallel to the east right-of-way line of South G Street; thence easterly three hundred (300) feet along a line parallel to the north lot line of Parcel "F", City of Indianola; thence southerly one thousand two hundred twenty-seven and twelve hundredths (1,227.12) feet along a line parallel to the east right-of-way of South G Street; thence westerly three hundred ten (310) feet along the south lot line of Parcel "G", City of Indianola; thence southerly three hundred ninety and thirty-nine hundredths (390.39) feet along a line parallel to the east right-of-way of South G Street; thence westerly twenty (20) feet; thence southerly six hundred forty-eight and sixty-four hundredths (648.64) feet along a line parallel to the east right-of-way of South G Street; thence westerly three hundred twenty (320) feet to the southwest corner of the North Half of the Southeast Quarter of the Northwest Quarter of Section 36, Township 76 North, Range 24 West; thence northerly three thousand four hundred thirty and thirty-five hundredths (3,430.35) feet along the east line of the Northeast Quarter and the Southwest Quarter of said Section 36 to the point of beginning.

Zone 3

Parker Southview Subdivision and that part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) platted as Lot 3 except the east 725 feet all in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian, now included in and forming a part of the City of Indianola, Warren County, Iowa, more particularly described as follows:

Beginning at a point six hundred forty-one and one tenth (641.1) feet south of and fifty-five and five tenths (55.5) feet east of the northwest corner of the Northwest Quarter of the Northwest

Quarter of Section 36, Township 76 North, Range 24 West, thence easterly one thousand two hundred fifty-two and seven tenths (1,252.7) feet along the north lot lines of Lot 3 and Parker Southview Subdivision; thence southerly along the east lot line of Parker Southview Subdivision, also the west right-of-way of South G Street, a distance of three hundred thirty (330) feet; thence westerly along the centerline of West 12th Street a distance of one thousand two hundred three and ninety-four hundredths (1,203.94) feet; thence northerly along the west lot line of Lot 3, also the east right-of-way line of K Street, a distance of thirty and eight tenths (30.8) feet; thence northwesterly seventy and seven tenths (70.7) feet along the west lot line of Lot 3; thence northerly two hundred thirty-nine and fifty-six hundredths (239.56) feet to the point of beginning.

Zone 4

An area in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section 36, Township 76 North, Range 24 West of the 5th Principal Meridian platted as Lot 4; now included in and forming a part of the City of Indianola, Warren County, Iowa; more particularly described as follows:

Beginning at a point nine hundred eighty-one and three hundredths (981.03) feet south of and thirty-three (33) feet east of the northwest corner of the Northwest Quarter of the Northwest Quarter of Section 36, Township 76 North, Range 24 West; thence easterly one thousand two hundred forty-seven (1,247) feet along the centerline of West 12th Street; thence southerly three hundred twenty (320) feet along the west right-of-way line of South G Street; thence westerly one thousand two hundred forty-seven (1,247) feet along a line parallel to the southern lot line of Lot 4; thence along the west lot line of Lot 4, also the east right-of-way line of K Street, a distance of three hundred twenty (320) feet to the point of beginning.

3. A connection charge is hereby established and imposed upon the owners of properties within the South G Street and West Twelfth Avenue Sewer Benefited District who shall hereafter make application to connect their properties to the

sewer. The connection charge for the South G Street and West Twelfth Avenue Sewer Benefited District shall be $47.61 for each front foot of property, rounded down to the nearest foot, for which application is hereafter made for connection to the sewer. "Front foot of property" means each foot of property on both sides of the South G Street and West Twelfth Avenue Sewer.

4. Properties which have front footage along the South G Street and West Twelfth Avenue Sewer and are unconnected to it shall pay the connection charge described in subsection 3 above when that property is connected to the City's sewer system regardless of whether it is a direct or indirect connection to the South G Street and West Twelfth Avenue Sewer.

5. The connection charge for corner lots shall be determined using the shortest side of the lot that fronts the sewer.

6. Notwithstanding the connection charge calculations described above, the minimum tap charge for properties in agricultural zoning classifications shall be $5,951.25, which is the minimum lot width of 125 feet in the agricultural zoning classification multiplied by $47.61.

7. Notwithstanding the connection charge calculations described above, the minimum tap charge for properties in residential zoning classifications shall be $3,332.70, which is the minimum lot width of 70 feet in the residential zoning classification multiplied by $47.61.

8. Property owners who connect in later years shall pay interest on their connection charge. Interest shall accrue at a rate 1% higher than the interest rate on bonds issued by the City to finance the South G Street and West Twelfth Avenue sewer project. However, no interest shall accrue for the first five years after completion of the project. Interest shall accrue for the next ten years at the rate described in this subsection. Thereafter, no interest shall accrue.

100.07 PLAINVIEW SOUTH TRUNK SEWER.

1. The Plainview South Trunk Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the Plainview South Trunk Sewer Benefited District shall be as follows:

> An area in the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section 31, Township 76 North, Range 23 West of the 5th P.M. not platted into lots, now included in and forming a part of the City of Indianola, Warren County, Iowa, more particularly described as follows: Beginning at a point one thousand eighty and seven tenths (1080.7) feet east and forty (40) feet south of the northwest corner of the northwest quarter of Section 31, Township 76 North, Range 23 West; thence easterly one thousand five hundred (1,500) feet along the south right of way line of Plainview Drive; thence southerly two hundred fifty (250) feet along a line parallel to the quarter section line of Section 31, Township 76 North, Range 23 West; thence westerly one thousand five hundred (1,500) feet along a line parallel to the south right of way line of Plainview Drive; thence northerly two hundred fifty (250) feet along the line parallel to the quarter section line of said section 31 to the point of beginning, containing 6.89 acres, more or less.

3. A connection charge is hereby established and imposed upon the owners of properties within the Plainview South Trunk Sewer Benefited District who shall hereafter make application to connect their properties to the sewer. The connection charge for the Plainview South Trunk Sewer Benefited District shall be $674.64 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 6% interest compounded annually.

4. Single family residences within the Plainview South Trunk Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1223 (March 28, 2002) and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City and within the benefited district may connect such residences to the Plainview South Trunk Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City and within the benefited district may connect such residences to the Plainview South Trunk Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate

connection structures, as determined necessary by the City. All other property located within the corporate limits of the City and within the Plainview South Trunk Sewer Benefited District shall be eligible for connection to the Plainview South Trunk Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1223 – May 02 Supp.)

100.08 PLAINVIEW NORTH TRUNK SEWER.

1. The Plainview North Trunk Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the Plainview North Trunk Sewer Benefited District shall be as follows:

An area in the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 30, Township 76 North, Range 23 West of the 5th P.M. platted as Auditor's Outlots 2, 3, 4, 5 and 6; an area in the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 30, Township 76 North, Range 23 West of the 5th P.M. not platted into lots, now included in and forming a part of the City of Indianola, Warren County, Iowa, more particularly described as follows: Beginning at a point one thousand eighty three (1083) feet east and forty (40) feet north of the southwest corner of the southwest quarter of Section 30, Township 76 North, Range 23 West, said point being the southeast corner of Lot 1 of the Nabholz Subdivision; thence northerly one hundred fifty eight (158) feet along the east lot line of Lot 1 of the Nabholz Subdivision; thence westerly six hundred fifty eight and five tenths (658.5) feet along the north plat line of the Nabholz Subdivision; thence northerly five hundred ninety eight (598) feet along a line parallel to the west line of Section 30, Township 76 North, Range 23 West; thence easterly one thousand one hundred (1,100) feet along a line parallel to the south line of said section 30; thence southwesterly five hundred eighty seven and three tenths (587.3) feet to a point three hundred fifty six (356) feet north of the north right of way line of Plainview Drive; thence southwesterly four hundred twenty-four and seven tenths (424.7) feet to a point one hundred fifty eight (158) feet north of the north right of way line of Plainview Drive; thence southerly one hundred fifty eight (158) feet along a line parallel to the west line of said Section 30; thence westerly one thousand two hundred twenty-nine and two tenths (1,229.2) feet along the north right of way line of Plainview Drive to the point of beginning, containing 24.13 acres, more or less.

3. A connection charge is hereby established and imposed upon the owners of properties within the Plainview North Trunk Sewer Benefited District who shall hereafter make application to connect their properties to the sewer. The connection charge for the Plainview North Trunk Sewer Benefited District shall be $5,390.52 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 6% interest compounded annually.

4. Single family residences within the Plainview North Trunk Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1222 (March 28, 2002), and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City and within the benefited district may connect such residences to the Plainview North Trunk Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City and within the benefited district may connect such residences to the Plainview North Trunk Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City and within the Plainview North Trunk Sewer Benefited District shall be eligible for connection to the Plainview North Trunk Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1222 – May. 02 Supp.)

100.09 NORTH JEFFERSON WAY (US HWY 65/69) TRUNK SEWER.

1. The North Jefferson Way (US Hwy 65/69) Trunk Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the North Jefferson Way (US Hwy 65/69) Trunk Sewer Benefited District shall be divided into two subdistricts as follows:

Subdistrict No. 1: An area in the NW ¼ of Section 19, Township 76 North, Range 23 West of the 5th P.M. platted as Lot 6 Auditor's Plat of Hulen's Subdivision now included in and forming a part of the City of Indianola, Warren County, Iowa, containing approximately 0.28 acres.

Subdistrict No. 2: An area in the NW ¼ of Section 19, Township 76 North, Range 23 West of the 5th P.M. platted as Lot 2 Auditor's Plat of Hulen's Subdivision now included in and forming a part of the City of Indianola, Warren County, Iowa. Subdistrict No. 2 is divided into two parcels with one parcel on the north boundary measuring 270' x 186' and containing approximately 1.15 acres and the remainder containing approximately 7.86 acres.

(Ord. 1458 – Nov. 10 Supp.)

3. A connection charge is hereby established and imposed upon the owners of properties within the North Jefferson Way (US Hwy 65/69) Trunk Sewer Benefited District who shall hereafter make application to connect their properties to the sewer as follows:

A. Subdistrict No. 1. The connection charge for Subdistrict No. 1 shall be $5,200.00 for all or any part of Subdistrict No. 1 for which application is hereafter made for connection to the trunk sewer with 6% interest compounded annually.

B. Subdistrict No. 2. The connection charge for Subdistrict No. 2 shall be $3,688.00 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 6% interest compounded annually.

C. Subdistrict No. 3. The connection charge for Subdistrict No. 3 shall be $563.00 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 6% interest compounded annually.

4. Single family residences within the North Jefferson Way (US Hwy 65/69) Trunk Sewer Benefited District, in existence or under construction upon the effective

date of Ordinance No. 1227 (June 12, 2002), and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City and within the benefited district may connect such residences to the North Jefferson Way (US Hwy 65/69) Trunk Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City and within the benefited district may connect such residences to the North Jefferson Way (US Hwy 65/69) Trunk Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City and within the North Jefferson Way (US Hwy 65/69) Trunk Sewer Benefited District shall be eligible for connection to the North Jefferson Way (US Hwy 65/69) Trunk Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1227 – Aug. 02 Supp.)

100.10 WEST EUCLID AVENUE TRUNK SEWER.

1. The West Euclid Avenue Trunk Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the West Euclid Avenue Trunk Sewer Benefited District are as follows:

An area in the Northwest Quarter (NW 1/4) and the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section 26, Township 76 North, Range 24 West of the 5th Principal Meridian not platted into lots, now included in and forming a part of the City of Indianola, Warren County, Iowa, more particularly described as follows: Beginning at a point thirty three (33) feet south and thirty three (33) feet east of the northwest corner of Section 26, Township 76 North, Range 24 West; thence easterly two thousand six hundred (2,600) feet along the south

right of way line of Euclid Avenue; thence southwesterly three hundred ten (310) feet to a point three hundred thirty three (333) feet south and two thousand five hundred twenty (2,520) feet east of the northwest corner of Section 26, Township 76 North, Range 24 West; thence westerly two hundred twenty (220) feet along a line parallel to the south right of way line of Euclid Avenue; thence southerly one hundred eighty (180) feet along a line perpendicular to the south right of way line of Euclid Avenue; thence westerly four hundred (400) feet along a line parallel to the south right of way line of Euclid Avenue; thence northerly one hundred eighty (180) feet along a line perpendicular to the south right of way line of Euclid Avenue; thence westerly four hundred (400) feet along a line parallel to the south right of way line of Euclid Avenue; thence southerly six hundred (600) feet along a line perpendicular to the south right of way line of Euclid Avenue; thence westerly one thousand five hundred (1,500) feet along a line parallel to the south right of way line of Euclid Avenue; thence northerly nine hundred (900) feet along the east right of way line of Northwest 17th Street, also known as Y Street, to the point of beginning, containing 40.22 acres, more or less.

3. A connection charge is hereby established and imposed upon the owners of properties within the West Euclid Avenue Trunk Sewer Benefited District who shall hereafter make application to connect their properties to the sewer. The connection charge for the West Euclid Avenue Trunk Sewer Benefited District shall be $1,375.62 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 6 % interest compounded annually.

4. Single family residences within the West Euclid Avenue Trunk Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1225 (May 29, 2002), and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City and within the benefited district may connect such residences to the West Euclid Avenue Trunk Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City and within the benefited district may connect such residences to the West Euclid Avenue Trunk Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel

and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City and within the West Euclid Avenue Trunk Sewer Benefited District shall be eligible for connection to the West Euclid Avenue Trunk Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1225 – Aug. 02 Supp.)

100.11 NORTH HIGHWAY 65/69 SANITARY SEWER.

1. The North Highway 65/69 Sanitary Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the North Highway 65/69 Sanitary Sewer Benefited District are as follows:

An area in Section 13, Township 76 North, Range 24 West of the 5th Principal Meridian and an area in Section 18, Township 76 North, Range 23 West of the 5th Principal Meridian all located in the City of Indianola, Warren County, Iowa, more particularly described as follows: Commencing at a point of reference at the center of said Section 13; thence easterly along the north line of the south half of said Section 13 to a point on the east right-of-way of Country Club Road (also known as 125th Avenue), said point being the point of beginning; thence northerly along the east right-of-way of Country Club Road a distance of 660 feet; thence north 54°09'40" east a distance of 1,580.35 feet; thence easterly along a line parallel to the north line of the south half of said Section 13 to a point on the west line of said Section 18; thence southerly along the west line of said Section 18 a distance of 48.43 feet; thence easterly along a line perpendicular to the west line of said Section 18 a distance of 650 feet; thence southerly along a line parallel to the west line of said Section 18 to the north line of the south half of said Section 18; thence continuing southerly along a line parallel to the west line of the said Section 18 a distance of 1,336.88 feet; thence westerly 650 feet to the east line of said Section 13; thence westerly along the south line of Fair Acres; an official plat, to a point on the east line of the west half of said Section 13; thence westerly along a line perpendicular to the east line of the west half of said Section 13 a distance of 590 feet; thence northerly along a line parallel to the east line of the west half of said Section 13 a distance of 646.74 feet; thence easterly a distance of 250 feet; thence northerly along a line parallel to the east line of the west half of said Section 13 to the south right-of-way of Hoover Street; thence easterly along the south right-of-way of Hoover Street to the east right-of-way of Country Club Road; thence northerly along the east right-of-way of

County Club Road to the point of beginning (except all road right-of-way).

3. A connection charge is hereby established and imposed upon the owners of properties within the North Highway 65/69 Sanitary Sewer Benefited District who shall hereafter make application to connect their properties to the sewer. The connection charge for the North Highway 65/69 Sanitary Sewer Benefited District shall be $2,911.45 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 6% interest compounded annually.

4. Single family residences within the North Highway 65/69 Sanitary Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1243 (January 15, 2003) and located within the corporate limits of the City of Indianola, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City of Indianola and within the benefited district may connect such residences to the North Highway 65/69 Sanitary Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City of Indianola and within the benefited district may connect such residences to the North Highway 65/69 Sanitary Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City of Indianola and within the North Highway 65/69 Sanitary Sewer Benefited District shall be eligible for connection to the North Highway 65/69 Sanitary Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1243 – May 03 Supp.)

100.12 HIGHWAY 92 WEST SEWER.

1. The Highway 92 West Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the Highway 92 West Sewer Benefited District shall be divided into two subdistricts as follows:

Subdistrict No. 1. The East One-half of the Northeast Quarter (E ½ NE ¼) and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE ¼ SW ¼ NE ¼) of Section 27, Township 76 North, Range 24 West of the 5th P.M., Warren County, Iowa, subject to easements for public right-of-way, AND a parcel or more of land located in the Southeast Quarter (SE ¼) of Section 27, Township 76 North, Range 24 West of the 5th P.M., Warren County, Iowa. Said parcels of land being more particularly described as follows: The parcels lying north of the easement dedicated as right-of-way to Highway 92 and east of the easement dedicated right-of-way of County Road R63 and west of the easement dedicated as right-of-way to "Y" Street, AND parcels of land located in the Northwest Quarter (NW ¼) of Section 26, Township 76 North, Range 24 West of the 5th P.M., Warren County, Iowa. Said parcels of land being more particularly described as follows: The west 300.00 feet lying east of the easement dedicated as right-of-way to "Y" Street and south of the easement dedicated as right-of-way to West Euclid Avenue, AND parcels of land located in the Northwest Quarter of the Southwest Quarter (NW ¼ SW ¼) of Section 26, Township 76 North, Range 24 West of the 5th P.M., Warren County, Iowa. Said parcels of land being more particularly described as follows: Parcel "A", Parcel "C" of Parcel "A" and Parcel "B" subject to easements for public right-of-way.

Subdistrict No. 2. Lots 1 through 11 and Outlot "X" all in Wesley Corner Plat 1, an official Plat, now included in and forming a part of the City of Indianola, Warren County, Iowa.

3. A connection charge is hereby established and imposed upon the owners of properties within the Highway 92 West Sewer Benefited District who shall hereafter make application to connect their properties to the sewer as follows:

A. Subdistrict No. 1. The connection charge for the Highway 92 West Sewer Benefited Subdistrict No. 1 shall be $2,019.79 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 4 ½% interest compounded annually.

B. Subdistrict No. 2. The connection charge for the Highway 92 West Sewer Benefited Subdistrict No. 2 shall be $2,421.29 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 4 ½% interest compounded annually.

4. Single family residences within the Highway 92 West Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1305 (September 29, 2004) and located within the corporate limits of the City of Indianola, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City of Indianola and within the benefited district may connect such residences to the Highway 92 West Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City of Indianola and within the benefited district may connect such residences to the Highway 92 West Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City and within the Highway 92 West Sewer Benefited District shall be eligible for connection to the Highway 92 West Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1305 – Nov. 04 Supp.)

100.13 EAST HIGHWAY 92 SANITARY SEWER.

1. For use in this section the following terms are defined:

A. "Benefited Service Area" means a designated area to which sanitary sewer service will be provided by a sanitary sewer utility of a given design and capacity.

B. "Connection" means any act that results in a direct or indirect discharge into the sanitary sewer utility, including but not limited to, the connection of a private sewer system to a lateral sewer or manhole or the connection of a lateral sewer serving a subdivision to a trunk sewer or manhole.

C. "Connection Fee District" means an area within the City limits of Indianola, Iowa, legally described as follows:

Commencing at the center of Section 29, Township 76 North, Range 23 West, thence N88°35'46"W, a distance of two thousand two and seventy seven hundredths (2002.77) feet to the point of beginning; thence N00°32'37"W a distance of one hundred twenty seven and forty six hundredths (127.46) feet; thence N88°53'34"W a distance of eighty three and fifty four hundredths (83.54) feet; thence S69°23'39"W a distance of one hundred seven and sixty six hundredths (107.66) feet; thence N88°43'30"W a distance of one hundred ten and ninety hundredths (110.90) feet; thence N00°00'00"E a distance of two hundred twenty two and ninety four hundredths (222.94) feet; thence N10°18'32"E a distance of one hundred seventy and twenty eight hundredths (170.28) feet; thence S48°15'16"E a distance of two hundred forty seven and seventy five hundredths (247.75) feet; thence S88°46'29"E a distance of eighty (80.00) feet; thence S00°02'23"W a distance of sixteen and fifty five hundredths (16.55) feet; thence S89°12'09"E a distance of two hundred seventy two and twenty eight hundredths (272.28) feet; thence S00°12'02"W a distance of four hundred seventeen and forty two hundredths (417.42) feet; thence S89°56'35"E a distance of two hundred forty and nineteen hundredths (240.19) feet; thence S89°41'14"E a distance of one hundred fifty seven and fifty three hundredths (157.53) feet; thence S88°36'25"E a distance of two hundred sixty two and forty two hundredths (262.42) feet; thence S01°26'21"W a distance of nineteen and ninety one hundredths (19.91) feet; thence S88°30'56"E a distance of ninety nine and ninety seven hundredths (99.97) feet; thence N01°36'00"E a distance of twenty and six hundredths (20.06)feet; thence S87°39'28"E a distance

of three hundred five and fifteen hundredths (305.15) feet; thence S00°03'49"W a distance of one hundred sixty five and forty one hundredths (165.41) feet; thence S88°44'34"E a distance of one hundred twenty five (125.00) feet; thence N00°03'49"E a distance of two hundred five and four hundredths (205.04) feet; thence S88°35'55"E a distance of five hundred forty two and fifty six hundredths (542.56) feet; thence S00°04'57"W a distance of five hundred eighty six and fifty six hundredths (586.56) feet; thence N88°44'34"W a distance of one thousand three hundred thirty four and sixty seven hundredths (1,334.67) feet; thence S00°02'41"W a distance of six hundred sixty two and ninety two hundredths (662.92) feet; thence N88°84'35"W a distance of six hundred sixty six and ninety nine hundredths (666.99) feet; thence N00°01'13"E a distance of one thousand three hundred twenty four and sixty three hundredths (1,324.63) feet to the point of beginning, excluding highway right-of-way.

D. "Lot" means a parcel of land under one ownership. Two or more contiguous parcels under common ownership may be treated as one lot for the purposes of this section if the parcels bear common improvements or if the Council finds that the parcels have been assembled into a single unit for the purpose of use or development.

E. "Original Cost" means all costs incurred in the design, construction and financing of City sewer utilities necessary to provide sanitary sewer service to connection fee district, including but not limited to, the cost of labor, materials, engineering, fees, legal fees, closing costs, as outlined in the final plat and schedule for East Highway 92 Sanitary Sewer Extension Project, dated May 25, 2006 (the "Schedule"), on file in the office of City Clerk and incorporated herein by reference.

F. "Sanitary Sewer Utility" means and includes sanitary sewer trunklines and sanitary sewer interceptors, sanitary sewer force mains, pumping stations and detention basins.

2. The lots within the connection fee district constitute a benefited service area to be served by connecting to the sanitary sewer utility.

3. The original cost to the City of extending the City sewer utility to the properties in the connection fee district is $321,318.24.

4. The connection fee district contains approximately 38.86 acres.

5. There is imposed on all lots within the connection fee district for which a sewer connection fee has not previously been paid, a fee for connection to the sanitary sewer utility. The connection fee shall be equal to that allocation of the original cost of bringing the sanitary sewer utility to the connection fee district on a per acre basis, calculated in accordance with the actual acreage of the lot seeking to connect. The connection fee shall be as follows:

Connections in Fiscal Year	Connection Fee (per acre)
2006/2007	$8,307.09
2007/2008	$8,722.44
2008/2009	$9,158.56
2009/2010	$9,616.49
2010/2011	$10,097.31
2011/2012	$10,602.18
2012/2013	$11,132.29
2013/2014	$11,688.90
2014/2015	$12,273.35
2015/2016 and beyond	$12,887.02 for 2015/2016, said amount to increase by 5% each fiscal year

6. Before any connection is made to the sanitary sewer utility to serve a lot in the connection fee district, the owner of the lot or lots to be served by the connection shall file an application, on a form provided by the City, with the Building and Zoning Office. Upon approval of the application, Building and Zoning shall advise the applicant of the connection fee to be paid. Upon payment of the connection fee to the City, the City shall issue a connection permit. Upon completion of the

connection the owner of the lot or lots being connected shall notify Building and Zoning and the City shall, at its discretion, inspect the connection.

7. If the owner of two contiguous parcels affected by this section desires to make a connection to the sanitary sewer utility that will serve only one such parcel, and the parcels do not bear common improvements and have not been assembled into a single unit for the purpose of use or development, the owner may make application to the Council to connect to each such parcel separately. If the Council finds that the parcels do not bear common improvements and have not been assembled into a single unit for the purpose of use or development, the original connection fee shall be calculated and paid only upon the parcel or parcels that will be served by the connection. A new application must be filed, and a connection fee paid, when the parcel or parcels not served by the original connection to the sanitary sewer utility are connected.

8. Connection fees collected by the City Treasurer shall be used only for the purpose of operating, or paying debt of, the sanitary sewer utility.

9. The sewer connection fees established by this section are in addition to, and not in lieu of, any other fees for connection required under the plumbing code, other provisions of the municipal code, or City policy. The property owner paying a connection fee will be responsible for the full cost of providing any necessary sanitary sewer extensions or services lines from the private property improvements or buildings to the trunk sewers being constructed as part of the project.

10. In the event a connection is made to the sanitary sewer utility serving the connection fee district without the permit required by this section, or without payment of the connection fee set forth in this section, or if any installment payment of such fee as provided by subsequent resolution of the Council is not made, the City shall disconnect such service from the sanitary sewer utility until such time as the property owner has received a permit for the connection and paid the required connection fee. In addition, the City may pursue any other remedy allowed by law.

(Ord. 1363 – Nov. 06 Supp.)

100.14 HIGHWAY 65/69 SANITARY SEWER.

1. The Highway 65/69 Sanitary Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the Highway 65/69 Sanitary Sewer Benefited District shall be divided into four zones:

ZONE 1

A tract of land in the northwest quarter of Section 18 and the southwest quarter of Section 7, all in Township 76 North, Range 23 West of the 5th P.M. all in Warren County, Iowa and being more particularly described as follows: The east 1029 feet of the west 1129 feet of the south 95 feet of said Section 7 and the east 1029 feet of the west 1129 feet of the north 33 feet of said Section 18 except all rights-of-way of record.

ZONE 2

A tract of land in the northeast quarter of Section 13, Township 76 North, Range 24 West of the 5th P.M. all in Warren County, Iowa and being more particularly described as follows: Beginning on the north line of said quarter section where the west right-of-way line of U.S. Highway 65/69 intersects said north line; thence south on the west right-of-way line of U.S. Highway 65/69, 1150 feet; thence west, 2053 feet; thence north, 1150 feet to the north line of said quarter section; thence east on said north line, 2053 feet to the point of beginning except all rights-of-way of record.

ZONE 3

A tract of land in the southeast quarter of Section 12, Township 76 North, Range 24 West of the 5th P.M. Said tract also being part of Lots "J" and "F" of the Final Plat of Goodale Place in Warren County, Iowa and being more particularly described as follows: Beginning at a point on the south line of said southeast quarter, 1913 feet east of the south quarter corner of said section and also being the southeast corner of Lot "F" of the Final Plat of Goodale Place; thence west along the south line of said southeast quarter, also being the south line of Lots "F" and "J" of said Goodale Place, 1129 feet; thence north, 855 feet; thence east, 288 feet; thence north, 520 feet; thence east, 778 feet to the northwest corner of Lot "C" of said Goodale Place; thence south along the west line of Lots "C" and "D" of said Goodale Place, 926 feet to the southwest corner of said Lot "D" of said Goodale Place; thence east along the

common line of Lots "D" and "F" of said Goodale Place, 290 feet to the northwest corner of Lot "E" of said Goodale Place; thence south along the common line of Lots "E" and "F" extended of said Goodale Place to the south line of said southeast quarter, 470 feet; thence west on the south line of said southeast quarter, 246 feet to the point of beginning except all rights of way of record.

ZONE 6

A tract of land in the northwest quarter of Section 18, Township 76 North, Range 23 West of the 5th P.M. and part of Langfitt Subdivision Plat No. 2 all in Warren County, Iowa and being more particularly described as follows: Commencing at a point on the east right-of-way line of U.S. Highway 65/69, 33 feet south of the north line of said northwest quarter also being 150 feet east of the centerline of said U.S. Highway 65/69; thence east parallel to the north line of said northwest quarter on the north line of Lot 4 of Langfitt Subdivision Plat No. 2, 516 feet to the point of beginning; thence continuing east parallel to the north line of said northwest quarter on the north line of Lot 4 of said subdivision, 462 feet; thence south, 254 feet; thence southwesterly to a point on the south line of Lot 3 of said subdivision, 319 feet; thence south, 523 feet; thence west, 616 feet; thence north, 16 feet; thence west, 268 feet to a point on the east right-of-way line of U.S. Highway 65/69 and also being 60 feet east of the centerline of northbound U.S. Highway 65/69; thence northeasterly to a point on the east right-of-way line of U.S. Highway 65/69 which is 100 feet east of the centerline of northbound U.S. Highway 65/69, 189 feet; thence north continuing on the east right-of-way line of U.S. Highway 65/69, 168 feet; thence east leaving the east right-of-way line of U.S. Highway 65/69, 189 feet; thence north, 170 feet; thence east, 379 feet; thence north 522 feet to the point of beginning except all rights-of-way of record.

3. A connection charge is hereby established and imposed upon the owners of properties within the Highway 65/69 Sanitary Sewer Benefited District who shall hereafter make application to connect their properties to the sewer as follows:

A. The connection charge for the Highway 65/69 Sanitary Sewer Benefited Zone 1 shall be $3,672.60 for each acre of property, or prorated

for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 4.5% interest compounded annually.

B. The connection charge for the Highway 65/69 Sanitary Sewer Benefited Zone 2 shall be $6,106.23 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 4.5% interest compounded annually.

C. The connection charge for the Highway 65/69 Sanitary Sewer Benefited Zone 3 shall be $6,524.69 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 4.5% interest compounded annually.

D. The connection charge for the Highway 65/69 Sanitary Sewer Benefited Zone 6 shall be $3,672.60 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 4.5% interest compounded annually.

4. Single family residences within the Highway 65/69 Sanitary Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1400, and located within the corporate limits of the City of Indianola, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City of Indianola and within the benefited district may connect such residences to the Highway 65/69 Sanitary Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City of Indianola and within the benefited district may connect such residences to the Highway 65/69 Sanitary Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City of Indianola and within the Highway 65/69 Sanitary Sewer Benefited District shall be eligible for connection to the Highway 65/69 Sanitary Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1400 – May. 08 Supp.)

100.15 NORTH HOWARD STREET SANITARY SEWER.

1. The North Howard Street Sanitary Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their property to the sewer.

2. The boundaries of the North Howard Street Sanitary Sewer Benefited District has the following legal description:

The south 83 feet of the west 152 feet of the south 1/2 of Lot 1, Berry's Outlots, Indianola, Warren County, Iowa.

3. A connection charge is hereby established and imposed upon the owners of property within the North Howard Street Sanitary Sewer Benefited District who shall hereafter make application to connect their property to the sewer as follows:

A. The connection charge for the North Howard Street Sanitary Sewer Benefited District is $10,148.00 for which application is hereafter made for connection to the sanitary sewer with 4.5% interest compounded annually.

4. The single family residence within the North Howard Street Sanitary Sewer Benefited District is eligible for connection to the sanitary sewer facility.

(Ord. 1404 – May. 08 Supp.)

100.16 EAST HILLCREST SANITARY SEWER.

1. The East Hillcrest Sanitary Sewer Benefited District is hereby established for the purpose of collecting within the district a charge from those property owners who shall make application to connect their properties to the sewer.

2. The boundaries of the East Hillcrest Sanitary Sewer Benefited District shall be as follows:

The SW ¼ of the SW ¼ and the South 645' of the SE ¼ of the SW ¼ all in Section 18-76-23, Indianola, Warren County, Iowa.

3. A connection charge is hereby established and imposed upon the owners of properties within the East Hillcrest Sanitary Sewer Benefited District who shall hereafter make application to connect their properties to the sewer. The connection charge for the East Hillcrest Sanitary Sewer Benefited District shall be $1,090.51 for each acre of property, or prorated for a fraction thereof, for which application is hereafter made for connection to the trunk sewer with 4% interest compounded annually.

4. Single family residences within the East Hillcrest Sanitary Sewer Benefited District, in existence or under construction upon the effective date of Ordinance No. 1456, and located within the corporate limits of the City of Indianola, are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the City of Indianola and within the benefited district may connect such residences to the East Hillcrest Sanitary Sewer upon approval of their application for connection, payment of the connection charge for the parcel, and construction of appropriate connection structures, as determined necessary by the City, and owners of such residences on parcels in excess of one acre in size located within the City of Indianola and within the benefited district may connect such residences to the East Hillcrest Sanitary Sewer upon approval of their application for connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection charge for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. All other property located within the corporate limits of the City of Indianola and within the East Hillcrest Sanitary Sewer Benefited District shall be eligible for connection to the East Hillcrest Sanitary Sewer upon approval of an application for connection by the owner thereof and payment of the connection charge for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the City.

(Ord. 1456 – Nov. 10 Supp.)

100.17 WEST HIGHWAY 92 SANITARY SEWER.

1. Definitions.

A. "Benefited Service Area" means a designated area to which sanitary sewer service will be provided by a sanitary sewer utility of a given design and capacity.

B. "Connection" means any act that results in a direct or indirect discharge into the sanitary sewer utility, including but not limited to, the connection of a private sewer system to a lateral sewer or manhole or the connection of a lateral sewer serving a subdivision to a trunk sewer or manhole.

C. "Connection Fee District" means an area within the City limits of Indianola, Iowa, legally described as follows:

> An area in Section 26, Township 76 North, Range 24 West of the 5th Principal Meridian in Warren County, Iowa, more particularly described as follows:
>
> Commencing at a point 284.25 feet east and 572.50 feet south of the West Quarter corner of said Section 26, said point also being 251.24 feet east and 286.87 feet north of the point of intersection of the east right-of-way (ROW) line of North Y Street and the north ROW line of Highway 92 (also known as West 2nd Avenue), as currently established; thence northerly along the line 251.24 feet east of said east ROW line of North Y Street a distance of 43.13 feet to a point 380.00 feet north of the centerline of Highway 92; thence easterly along the line 380.00 feet north of and parallel to the centerline of Highway 92 a distance of approximately 540.00 feet, said point being the east line of Lot 5 of Leonard's Subdivision, an official plat in Indianola, Warren County, Iowa; thence southerly along the east line of said Lot 5 to the north line of Parcel B of said Lot 5; thence westerly along said north line of Parcel B of Lot 5 to the west line of said Parcel B of Lot 5; thence southerly along said west line of Parcel B of Lot 5 to the north ROW line of Highway 92; thence westerly along the north ROW line of Highway 92 to the west line of said Lot 5; thence northerly along said west line of Lot 5 a distance of 285.52 feet, said point being the Northeast Corner of Parcel B as shown on Plat of Survey, Drawing No. 1571.2-1 & 2 by Hiller Engineering; thence westerly along the north line of said Parcel B to the point of beginning.

AND

Beginning at the Southwest Corner of Lot 2 of Leonard's Subdivision, an official plat in Indianola, Warren County, Iowa; thence northerly along the west line of said Lot 2 to a point 380.00 feet north of the centerline of Highway 92; thence easterly along the line 380.00 feet north of and parallel to the centerline of Highway 92 a distance of 200.00 feet; thence southerly along the line 200.00 feet east of and parallel to the west line of said Lot 2 to the north ROW line of Highway 92; thence westerly along the north ROW line of Highway 92 to the point of beginning.

D. "Lot" means a parcel of land under one ownership. Two or more contiguous parcels under common ownership may be treated as one lot for the purposes of this section if the parcels bear common improvements or if the Council finds that the parcels have been assembled into a single unit for the purpose of use or development.

E. "Original Cost" means all costs incurred in the design, construction and financing of City sewer utilities necessary to provide sanitary sewer service to connection fee district, including but not limited to, the cost of labor, materials, engineering, fees, legal fees, closing costs, as outlined in the final plat and schedule for West Highway 92 Sanitary Sewer Extension Project, dated September 1, 2011 (the "Schedule"), on file in the office of City Clerk and incorporated herein by reference.

F. "Sanitary Sewer Utility" means the City's sanitary sewer, and includes sanitary sewer trunklines and sanitary sewer interceptors, sanitary sewer force mains, pumping stations and detention basins.

2. The lots within the connection fee district constitute a benefited service area to be served by connecting to the sanitary sewer utility.

3. The original cost to the City of extending the City sewer utility to the properties in the connection fee district is $250,411.66, of which $208,120.84 was specially assessed against properties by petition and wavier.

4. The benefited service area contained approximately 21.79 acres.

5. There is imposed on all lots within the connection fee district for which a sewer connection fee (or assessment) has not previously been paid, a fee for connection to the sanitary sewer utility. The connection fee shall be equal to that allocation of the original cost of bringing the sanitary sewer utility to the connection fee district on a per acre basis, calculated in accordance with the actual acreage of the lot seeking to connect. The connection fee shall be $11,492.04 per acre if paid during the 2011/2012 fiscal year. Said amount shall increase at a rate of 5.25% annually, effective July 1, 2012, and each July 1 thereafter (e.g. per acre connection fee shall be $12,095.37 for connections in fiscal year 2012/2013 and $12,740.38 per acre for connections in 2012/2014, etc.)

6. Before any connection is made to the sanitary sewer utility to serve a lot in the connection fee district, the owner of the lot or lots to be served by the connection shall file an application, on a form provided by the City, with the Building and Zoning Office. Upon approval of the application, Building and Zoning shall advise the applicant of the connection fee to be paid. Upon payment of the connection fee to the City, the City shall issue a connection permit. Upon completion of the connection the owner of the lot or lots being connected shall notify Building and Zoning and the City shall, at its discretion, inspect the connection.

7. If the owner of two contiguous parcels affected by this section desires to make a connection to the sanitary sewer utility that will serve only one such parcel, and the parcels do not bear common improvements and have not been assembled into a single unit for the purpose of use or development, the owner may make application to the Council to connect to each such parcel separately. If the Council finds that the parcels do not bear common improvements and have not been assembled into a single unit for the purpose of use or development, the original connection fee shall be calculated and paid only upon the parcel or parcels that will be served by the connection. A new application must be filed, and a connection fee paid, when the parcel or parcels not served by the original connection to the sanitary sewer utility are connected.

8. Connection fees collected by the City Treasurer shall be used only for the purpose of operating, or paying debt of, the sanitary sewer utility.

9. The sewer connection fees established by this section are in addition to, and not in lieu of, any other fees for connection required under the plumbing code, other provisions of the municipal code, or City policy. The property owner paying a connection fee will be responsible for the full cost of providing any necessary

sanitary sewer extensions or services lines from the private property improvements or buildings to the trunk sewers being constructed as part of the project.

10. In the event a connection is made to the sanitary sewer utility serving the connection fee district without the permit required by this section, or without payment of the connection fee set forth in this section, or if any installment payment of such fee as provided by subsequent resolution of the Council is not made, the City shall disconnect such service from the sanitary sewer utility until such time as the property owner has received a permit for the connection and paid the required connection fee. In addition, the City may pursue any other remedy allowed by law.

(Ord. 1487 – Feb. 12 Supp.)

[The next page is 560.1]

CHAPTER 103

STORMWATER UTILITY

103.01 District Established

103.02 Definitions

103.03 Scope and Responsibility for the Stormwater Utility

103.04 Water Pollution Control Superintendent

103.05 Prohibited Acts

103.06 Right of Entry

103.07 Penalties

103.01 DISTRICT ESTABLISHED. There is established one stormwater district that included the entire City.

103.02 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of the terms used in this chapter shall be as follows:

1. "Commercial/Industrial" means any developed land whereon multiple family dwellings, commercial retail and office, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, public and private school buildings, churches, hospitals and convalescent centers have been constructed.

2. "Customers of the stormwater utility" include all persons, properties and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension and improvement of the public stormwater management system and facilities.

3. "Developed land" means land that has been altered from its natural state by construction or installation of more than 500 square feet of impervious surface area as defined in this chapter.

4. "Duplex dwelling" means a building containing only two (2) dwelling units and designed for and occupied exclusively by not more than two (2) families with separate housekeeping and cooking facilities for each. In the application of stormwater management fees, duplex dwelling properties shall be treated as two (2) single family dwellings.

5. "Equivalent Residential Unit (ERU)" shall be used as the basis for determining stormwater management fees. Less than or equal to three thousand four hundred

(3,400) square feet of impervious surface area shall be one ERU. Each additional 340 square feet of impervious area shall constitute an additional 0.1 ERU and shall be the smallest increment for billing purposes.

6. "Impervious surface area" means those areas which prevent or impede the infiltration of stormwater into the soil as it enters in natural conditions prior to development. Common impervious surface areas include, but are not limited to, rooftops, sidewalks, driveways, patios, parking lots, storage areas and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development. "Impervious surface area" does not mean gravel surfaces.

7. "Multiple family dwelling" means a residence designed for or occupied by three (3) or more families with separate housekeeping and cooking facilities for each. In the application of stormwater management fees, multiple family dwelling properties shall be treated as commercial/ industrial.

8. "Pollutant" means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, so that the same may cause or contribute to pollution; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform bacteria and pathogens; dissolved and particulate metals; animal wastes; waste and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

9. "Single family dwelling" means a residence designed for or occupied by one (1) family only entirely surrounded by yard on the same lot.

10. "Stormwater management fees" means the periodic rate, fee or charge applicable to a parcel of developed land, which charge shall be reflective of the service provided by the City of Indianola stormwater utility. Stormwater management fees are based on measurable parameters which influence the stormwater utility's cost of providing services and facilities, with the most important factor being the amount of impervious surface area on each parcel of developed property. The stormwater management fees shall be determined by ordinance of the City Council.

11. "Stormwater management systems and facilities" address the issue of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes and ponds through

improvements, maintenance, regulation and funding of plants, structures and property used in the collection, retention, detention and treatment of stormwater or surface water drainage.

12. "Substantial completion" means the construction has been completed and the City of Indianola has acknowledged that the construction has been completed in accordance with the approved plans and specifications through the issuance of a temporary certificate of occupancy or permanent certificate of occupancy.

13. "Townhome dwelling" means a dwelling unit which is detached or attached horizontally, and not vertically to one or more other dwelling units, wherein the land or lot beneath each dwelling may be individually owned in common by a townhome association. In the application of stormwater management fees, each townhome dwelling shall be treated as one (1) single family dwelling.

14. "Undeveloped land" means land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered state. Undeveloped land shall have less than 500 square feet of pavement, asphalt or compacted gravel surfaces or structures which create an impervious surface area.

103.03 SCOPE AND RESPONSIBILITY FOR THE STORMWATER UTILITY. The City of Indianola stormwater utility consists of all rivers, streams, creeks, branches, lakes, ponds, drainage ways, channels, ditches, swales, storm sewer, culverts, inlets, catch basins, pipes, dams, head walls and other structures, natural or man-made, within the corporate boundaries of the City of Indianola which control and/or convey stormwater through which the City intentionally diverts surface waters from its public streets and properties. The City of Indianola owns or has legal access for purposes of operation, maintenance and improvement to those segments of this system which (1) are located within public streets, rights-of-ways and easements; (2) are subject to easement or other permanent provision for adequate access for operation, maintenance and improvement of systems or facilities; or (3) are located on public lands to which the City of Indianola has adequate access for operation, maintenance and improvement of systems or facilities. Operation, maintenance and improvement of stormwater systems and facilities which are located on private property or public property not owned by the City of Indianola and for which there has been no public dedication of such systems and facilities shall be and remain the legal responsibility of the property owner, or its occupant.

103.04 WATER POLLUTION CONTROL SUPERINTENDENT. The Water Pollution Control Superintendent or designee has the following powers and duties related to the City of Indianola Stormwater Utility:

1. Operation and Maintenance. Operation and maintenance of the stormwater management systems and facilities.

2. Inspections and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of this chapter.

3. Records. Maintain a complete and accurate record of all stormwater management systems and facilities.

4. Policies. Recommend to the City Council policies to be adopted and enforced to implement the provisions of this chapter.

103.05 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Stormwater Management Systems and Facilitates. Maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, pipe, appurtenance or equipment which is part of the stormwater management systems or facilities.

2. Illicit Discharges. No person shall, directly or indirectly, throw, drain or otherwise discharge anything other than stormwater into the City of Indianola stormwater management systems and/or facilities, including but not limited to pollutants or waters containing any pollutants.

3. Manholes. Open or enter any manhole, structure or intake of the stormwater system, except by authority of the Water Pollution Control Superintendent or designee.

4. Connection. Connection of any private stormwater system to the City's stormwater management systems and facilities, except by authority of the Water Pollution Control Superintendent or designee.

103.06 RIGHT OF ENTRY. The Water Pollution Control Superintendent and other authorized employees of the City of Indianola shall be permitted to enter all private properties for the purpose of inspection, observation, measurement, sampling and testing all

private stormwater discharges directly or indirectly entering into any public stormwater management system or facility in accordance with the provisions of this chapter.

103.07 PENALTIES. The following penalty provisions shall apply to violations of the Stormwater Utility chapters of this code.

1. Notice of Violation. Any person found to be violating any provisions of these chapters may be served by the City of Indianola with a 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 remedy all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 above, may be subject to a municipal infraction. Each day which said 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 of Indianola for any expense, loss or damage occasioned the City of Indianola by reason of such violation.

(Ch. 103 – Ord. 1463 – Feb. 11 Supp.)

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CHAPTER 104

STORMWATER MANAGEMENT FEES

104.01 Service Charges

104.02 Stormwater Management Fees

104.03 Calculations

104.04 Appeals

104.05 Exemption From Fees; Special Conditions

104.06 Billings

104.07 Periodic Review

104.08 Lien for Nonpayment

104.01 SERVICE CHARGES. Effective with bills due and payable on or after January 1, 2011, every customer whose premises is served by the stormwater management systems and facilities of the City of Indianola, either directly or indirectly, shall pay to the City of Indianola stormwater management fees hereinafter established and specified for the purpose of contributing towards the costs of construction, maintenance and operation of the stormwater management systems and facilities.

104.02 STORMWATER MANAGEMENT FEES. Except as hereinafter noted, each customer whose property lies within the corporate limits of the City of Indianola shall pay to the City of Indianola, through its utility billing system, the following stormwater management fees based on equivalent residential unit (ERU) associated with the customer's property:

1. Undeveloped: A flat fee at the rate of $0.00 per month.

2. Single-Family and Two-Family Residential: $2.00 per ERU per month.

3. Commercial/Industrial/Multi-Family/Government/Other Uses: $2.00 per ERU per month up to a maximum of 200 ERUs. The 200 ERU cap is in place for the physical condition of properties as of December 31, 2010. If a property exceeds 200 ERUs as of this date and expands its impervious area after this date, the new expanded area is subject to the full stormwater management fees for the expanded area plus the 200 ERU cap. Multiple parcels owned by either the Indianola Community School District, Warren County or the City of Indianola shall be considered one parcel and subject to one 200 ERU cap regardless of future expansions. Multiple parcels owned by a private entity shall be considered one parcel and subject to one 200 ERU cap as long as such parcels are contiguous. All other non-contiguous parcels owned by such a private entity shall be calculated separately and individually.

104.03 CALCULATIONS. Stormwater management fee calculations shall be the number of equivalent residential units (ERUs) of each property shall be calculated using the most recent aerial photography available to the City of Indianola and/or impervious surface data from an approved site plan for the property. Stormwater management fees may be recalculated from time to time if there are changes in the impervious surface area of the property.

104.04 APPEALS. Any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

1. An appeal must be filed in writing with the City Clerk of the City of Indianola. In the case of fee appeals, the appeal shall include an accurate rendition of the property containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.

2. Using the information provided by the appellant, the City Manager or designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

3. If the dispute has not been resolved in a timely manner, the appellant can request that the matter be reviewed by the City Council.

104.05 EXEMPTION FROM FEES; SPECIAL CONDITIONS. The stormwater management fee shall not apply:

1. If a written request is made, in special conditions the City Council of the City of Indianola may grant fee payment and collection variances after determining that granting the variance would be in the City's best interest, will improve efficiency, safety and is practical.

104.06 BILLINGS. All stormwater management fees shall be due and payable under the same terms and conditions provided for payment of a City of Indianola service account.

104.07 PERIODIC REVIEW. The City will review the stormwater management fees at least yearly and revise the stormwater management fees as necessary to ensure that such charges as herein established and specified generate adequate revenues to pay the costs of maintenance and operation (including replacement and debt service) of stormwater management systems and facilities and that the stormwater management fees continue to provide for the proportional distribution of maintenance and operation costs (including

replacement costs and debt service) for stormwater management systems and facilities among the users and user classes. The liability of a stormwater service user to pay for charges as provided in this chapter shall not be contingent, however, upon any such review or revision.

104.08 LIEN FOR NONPAYMENT. The owner of the premises served shall liable for stormwater management fees. Stormwater management 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.

(Ch. 104 – Ord. 1464 – Feb. 11 Supp.)

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose

105.02 Definitions

105.03 Sanitary Disposal Required

105.04 Health and Fire Hazard

105.05 Separation of Yard Waste Required

105.06 Littering Prohibited

105.07 Open Dumping Prohibited

105.08 Toxic and Hazardous Waste

105.09 Waste Storage Containers

105.10 Prohibited Practices

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

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

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

2. "Director" means the director of the State Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.101[2b])

3. "Discard" means to place, cause to be placed, throw, deposit or drop.

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

4. "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.

5. "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)

6. "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])

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

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

8. "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.

9. "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)

10. "Residential premises" means a single-family dwelling and any multiple-family dwelling.

11. "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 and trade waste.

(IAC, 567-20.2[455B])

12. "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)

13. "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)

14. "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.

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

15. "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.

(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 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 acceptable containers and set out for collection. 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.

105.06 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)

105.07 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, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. 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)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. 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, 567-102.14[2] and 400-27.14[2])

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above

is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. 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.

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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 Collector's License

106.08 Conditions of License

106.09 Recycling Program

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be only by collectors licensed by 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 procedures therefor established by the Council.

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

106.07 COLLECTOR'S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the Clerk and provide the following:

   A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

   B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

   C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

   D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof with limits satisfactory to the Council.

3. License Fee. A license fee in the amount of one hundred fifty dollars ($150.00) per packer and one hundred dollars ($100.00) for any other type of unit operated shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

4. License Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and

in conformity with law and ordinance, the requested license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

6. License Not Transferable. No license authorized by this chapter may be transferred to another person.

7. Owner May Transport. Nothing herein is to be construed so as to prevent the 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.

8. Grading or Excavation Excepted. No license or permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

106.08 CONDITIONS OF LICENSE. The following requirements and regulations apply to all licensed collectors:

1. No license holder shall be permitted to bring refuse, garbage, rubbish or yard waste gathered from outside the City and deposit it in the City except by special agreement with the Council.

2. The Council reserves the right to revoke the license of any operator without notice who violates the provisions of this section, but the Council may elect at any time thereafter to reinstate the license on the payment of another license fee.

3. The Council reserves the right to cancel collection licenses without reason or hearing on ten (10) days' notice. In such event, all unaccrued license fees shall be refunded to the license holder.

4. All license holders shall be required to deposit all garbage, rubbish, refuse and yard waste collected within the City in a landfill site or a disposal system duly licensed by the Iowa Department of Natural Resources.

5. All license holders shall be required to provide recycling services to commercial and industrial businesses in accordance with the following specifications:

A. License holders must provide recycling containers.

B. License holders must specify the collection day and time and collect recyclables within twelve (12) hours of the specified time.

C. License holders must collect recyclables from each customer at least once per month unless normal solid waste collection service is provided less frequently than weekly, in which case the frequency of collection shall be the same as normal solid waste collection.

D. License holders are assumed to own the recyclables they have collected and may market them as they see fit. However, recyclables may not be disposed of on land, or through incineration unless prior written approval to do so is given by the Council.

E. License holders must submit an annual report to the Council, on or before January 31 of each year for the previous calendar year, identifying the weight in tons of all recyclables collected from Indianola customers.

F. License holders must demonstrate to the Council at the time of initial license issuance and renewal how they will inform their customers of the recycling services available.

6. All licensed collectors serving residential customers shall file a schedule of fees and charges to be made for residential collections, which shall be the maximum charge they can collect within the City for such services. The schedule of fees and charges may be amended effective the first day of January of each year. In the event that hauler's costs accelerate appreciably more rapidly than reasonably anticipated, an amendment to the charges may be requested effective July 1 of each year. Any desired amendment shall be filed not less than seventy-five (75) days preceding the date the proposed amendment is to become effective and shall in no event be effective until approved by the Council.

7. Unit Based Pricing. Effective April 7, 2002, all charges for the collection of residential solid waste from each residence shall be billed according to the size of the container or the weight of the container with charges increasing with each larger of size or weight of container. Service levels shall include:

A. One weekly pick-up of not more than 35 gallons or 45 pounds.

B. One weekly pick-up of not more than 64 gallons or 90 pounds.

C. One weekly pick-up of not more than 95 gallons or 135 pounds.

Any additional containers will be an additional cost and the weight of any individual container and contents shall not exceed 135 pounds.

(Ord. 1219 – Feb. 02 Supp.)

106.09 RECYCLING PROGRAM. A mandatory program for the separation and collection of recyclable materials from residential premises is hereby established. For purposes of this section, a residential premises is defined as a residential dwelling unit having an Indianola Municipal Utility electric meter. The City shall provide, by contract, for the collection of recyclable materials in accordance with the rules and regulations of the City's recycling program as established by resolution of the Council. The collection and disposal of recyclables as provided by this section are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a fee therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fee. The fee for recyclable collection and disposal service, used or available, is three dollars and twenty-five cents ($3.25) per month for each residential premises.

(Ord. 1518 – Aug. 13 Supp.)

2. 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 99.10 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 99.11 if the combined service account becomes delinquent, and the provisions contained in Section 99.13 relating to lien notices shall also apply in the event of a delinquent account.

3. Lien For Nonpayment. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for the collection and disposal of recyclables. 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 Grant of Franchise

110.02 Restrictions and Limitations

110.03 Pipes and Mains

110.04 Location and Relocation of Facilities

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110.06 Utility Easements

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110.10 Information

110.11 Applicable Regulations

110.12 Quality and Quantity

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110.14 Collection of Fees

110.15 Annexed Areas

110.16 Modifying Fees

110.17 Fee Refunds

110.18 Other Franchise Fees

110.19 Home Rule Power

110.20 Termination

110.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company," and to its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Indianola, Iowa, hereinafter called the "City," a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, and alleys to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty (20) year period from and after the effective date of the ordinance codified in this chapter. [†]

110.02 RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* 2011, or as subsequently amended or changed.

[†] **EDITOR'S NOTE:** Ordinance No. 1501, granting the natural gas franchise, was adopted on July 16, 2012.

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

110.04 LOCATION AND RELOCATION OF FACILITIES. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees at its cost or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right of way, sidewalks or other area in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or law.

110.06 UTILITY EASEMENTS. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall grant the Company easements for said facilities.

110.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City at any time during the previous five (5) years.

110.08 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities as may be required by Sections 110.04, 110.05, 110.06 and 110.07 of this chapter, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

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

110.10 INFORMATION. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right-of-way, including documents, maps and other information in paper or electronic or other forms ("information"). The Company and City recognize the information may in whole or part be considered a confidential record under state or federal law or both. Therefore, the City shall not release any information without prior consent of the Company and shall return the information to Company upon request. City recognizes that Company claims the information may constitute a trade secret or is otherwise protected from public disclosure by state or federal law on other grounds and agrees to retain the information in its non-public files. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents

or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code oflowa, as such statutes and regulations may be amended from time to time. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document which the Company has designated as a trade secret or as otherwise protected from disclosure, the Company shall assume, upon request of the City, the defense of said action and reimburse the City any and all cost, including attorney fees and penalties to the extent allowed by law.

110.11 APPLICABLE REGULATIONS. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.12 QUALITY AND QUANTITY. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

110.13 FRANCHISE FEE. There is hereby imposed upon the Company a franchise fee upon the gross revenue, less uncollectibles, generated from sales, pursuant to the tariff, within the corporate limits of the City on the following schedule for all customer classes:

September 1, 2012, to September 1, 2013	2 percent
From and after September 1, 2013	3 percent

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

110.14 COLLECTION OF FEES. The City recognizes the administrative burden collecting franchise fees impose upon the Company and the Company requires lead time to commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee. The City shall provide the

information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

110.15 ANNEXED AREAS. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.

110.16 MODIFYING FEES. The City agrees to modify the level of franchise fees imposed only once in any 24-month period, other than stated otherwise in agreement. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed upon date which is not less than 60 days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the City Council.

110.17 FEE REFUNDS. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers, the Company shall provide such information.

110.18 OTHER FRANCHISE FEES. At any time after the City enters into a franchise agreement with another person to sell natural gas at retail to City consumers and a franchise fee or its lawful equivalent is imposed at zero or a lesser rate than provided in this ordinance, either City or Company may provide written notice to the other to amend the franchise agreement to address the level of the franchise fee(s) then imposed or scheduled to take effect during the term of this franchise agreement. The parties shall have a six-month period after the date of the written notice to negotiate such an amendment to the franchise agreement. The parties may negotiate changes in the level(s) of fees during this period, or, if they cannot agree upon such an amendment, either party shall have the unilateral right to terminate the franchise.

110.19 HOME RULE POWER. The City reserves to itself all home rule power and authority.

110.20 TERMINATION. Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material

breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

(Ch. 110 - Ord. 1501 – Aug. 12 Supp.)

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CHAPTER 111

CABLE TELEVISION FRANCHISE

111.01 Definitions

111.02 Term of Franchise

111.03 Compliance with Regulatory Ordinance

111.04 Franchise Fee

111.05 System Design

111.06 System Upgrade

111.07 Capital Equipment Grant; Community Programming

111.08 Activated Channels; Programming

111.09 Service Area

111.10 Franchise Nonexclusive

111.11 Police Powers

111.12 Transfer of Franchise

111.13 Insurance Coverage and Notifications

111.14 Notification to City of Service Interruptions

111.15 Equal Protection

111.16 Force Majeure

111.17 Enforcement

111.18 Termination of Franchise

111.19 Security Fund; Letter of Credit

111.20 Bonding Requirements

111.21 Entire Agreement

111.22 Notices

111.01 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. "Basic cable" is the lowest priced tier of service that includes the retransmission of local broadcast television signals.

2. "Cable Act" means collectively the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as amended.

3. "Cable operator" has the same definition used in the Cable Act, as amended.

4. "Cable service" has the same definition used in the Cable Act, as amended.

5. "Cable system" has the same definition used in the Cable Act as amended.

6. "FCC" means Federal Communications Commission, or successor governmental entity thereto.

7. "Franchise" means the initial authorization, or renewal thereof issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System.

8. "Grantee" means any person, firm, corporation or other entity granted a franchise hereunder, or the lawful successor, transferee, or assignee thereof.

9. "Gross revenues" means any and all revenue received by the Grantee from the operation of the Cable System in the Service Area, provided, however, that such phrase shall not include any fees or franchise fees or taxes which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

10. "Headend" means the land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a broadband telecommunications network.

11. "House drop" means a cable that connects each building or home to the nearest feeder line of the cable network.

12. "Normal business hours" means those hours during which most similar businesses in the community are open to serve subscribers. In all cases, "normal business hours" includes some evening hours at least one night per week and/or some weekend hours.

13. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, strikes, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee 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.

14. "Outlet" means the point of connection of the cable or wire to a television.

15. "Person" means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

16. "Private property" means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

17. "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.

18. "Public access channel" means (a) channel capacity designated for public use; and (b) facilities and equipment for the use of such channel capacity. The Grantee expressly reserves the right to treat (b) as an external cost subject to and consistent with the FCC rules and regulations.

19. "Public property" means all property, real, personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

20. "Public way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, park-way, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the system. "Public way" also means any easement now or hereafter held by the City within the service area for the purpose of public travel or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purposes of installing and operating the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

21. "Service area" means the present municipal boundaries of the City.

22. "Service interruption" means the loss of video or audio on one or more channels.

23. "Service tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

24. "Subscriber" means a person or user of the system who lawfully receives communications and other services therefrom with the Grantee's express permission.

111.02 TERM OF FRANCHISE. Heritage Cablevision, Inc., its successors and assigns are hereby granted a renewal of their nonexclusive right, franchise and authority for a period of ten (10) years to erect, maintain and operate a cable system in the City and to sell and supply individuals, firms and corporations with the corporate limits of the City cable service and other services in, along, among, upon, across, above, over, under or in any manner connected with public ways within the service areas and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cable, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the cable system, subject to the conditions and restrictions provided and subject to the Cable Franchise Regulatory Ordinance, passed and adopted on February 15, 1999 and all applicable law of the State of Iowa and United States of America. [†]

111.03 COMPLIANCE WITH REGULATORY ORDINANCE. The Grantee shall comply with all the conditions and provisions of the Cable Franchise Regulatory Ordinance (Chapter 112) unless an exemption or modification is so specified in this chapter. All exemptions specified shall apply to Heritage Cablevision, Inc. as Grantee and shall not apply to any new successors or assigns. The Grantee shall be exempted from compliance with the following sections of Chapter 112:

1. Section 112.07 – Application for Franchise

2. Section 112.34(5) – Access Equipment and Facilities Fees

3. Section 112.52(9) – Security Fund

4. Section 112.52(10) – Faithful Performance Bond

[†] **EDITOR'S NOTE:** Ordinance No. 1141 is codified in Chapter 112 of this Code of Ordinances. Ordinance No. 1142 granting the franchise referred to herein to Heritage Cablevision, Inc., was adopted on February 16, 1999.

111.04 FRANCHISE FEE. In consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a system within the City, the Grantee shall pay to the City a franchise fee not to exceed the maximum percentage of gross revenues allowable under Federal law. The Council may set the franchise fee percentage by resolution provided that Grantee shall be notified of Council consideration of any franchise fee change. Any change in the Franchise Fee percentage shall become effective ninety (90) days from the date of City's written notice to Grantee of said change. This includes, but is not limited to, all subscriber payments, installation fees, converter boxes, leased access channels, and pay-per-view and other miscellaneous revenues paid by cable subscribers. This amount shall not include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Grantee on behalf of such governmental unit or agency.

1. Quarterly Payments. Payment due to the City under this provision shall be made quarterly at the City Clerk's office, not later than forty-five (45) days following March 31, June 30, September 30 and December 31 of each year. Any fee not paid when due shall bear interest at a rate of one and one-half percent (1½%) per month from the date due. Each payment shall be accompanied with a detailed report showing the basis for the computation, specific income categories, and such other relevant facts as may be required by the City necessary to determine the accuracy of the franchise payment as specified in this section. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the Grantee. All amounts paid shall be subject to audit and re-computation by the City.

2. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be five years from the date on which payment by the Grantee is due.

3. Franchise Fee Audit. The Grantee will fully cooperate with a franchise fee audit performed by a professional firm that is chosen by the City. The costs associated with the audit will be paid for by the City, provided that the Grantee shall pay for the costs if the audit shows an underpayment of franchise fees in excess of five percent (5%) or more. In addition, the City and Grantee will design a mutually agreeable form to be used by the Grantee that reflects a breakout of the items used to calculate the franchise fees paid to the City.

4. Franchise Fee Increases. The City may request an increase in franchise fees at any time during the term of the franchise, equal to the maximum allowed by

Federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the City shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fee.

111.05 SYSTEM DESIGN.

1. As of the effective date of the franchise, the Grantee will make available a minimum of seventy-three (73) channels of programming on the cable system.

2. The system will be designed so as to be two-way capable, and will be constructed in a manner that will meet or exceed FCC specifications.

3. The Grantee shall provide for the installation and operation of an emergency alert override system pursuant to FCC regulations on or before April 1, 1999.

4. The Grantee shall provide an "upstream capability" upon completion of the upgrade to allow live broadcast on the education and government channel from the following locations: Indianola City Hall, Indianola Community High School, Indianola Middle School, Simpson College, and Indianola School Administration Building. Grantee shall provide the modulators, modules, and other such equipment necessary to make cable system capable of feeding Grantee supplied signal over the cable system. Warren County Courthouse shall be provided upstream capability no later than twelve (12) months subsequent to request of Warren County Supervisors; such installation costs shall be borne by Warren County. Grantee shall provide the modulators, modules, and other such equipment necessary to activate live broadcast capability from the Warren County Courthouse.

5. The Grantee will provide one channel to be used for educational and governmental access. The Grantee will activate this channel from the Indianola City Hall and purchase all of the necessary equipment and modulators to activate the return. Upon completion of the system upgrade as specified in the Agreement and no later than six (6) months subsequent to written request by the City, Grantee shall provide one (1) additional channel for educational and governmental access.

111.06 SYSTEM UPGRADE.

1. System. The parties understand and agree that Grantee shall upgrade the cable system to a minimum capacity of seventy-eight (78) channels utilizing a fiber to

the node design or better. Further, the Grantee will activate upstream path from each fiber node, as needed upon sixty days' notice from the City and upon the completion of the upgrade. Costs for such upstream activation will be treated in the same manner as other rebuild costs. The system shall be designed and constructed in accordance with the design specifications in Appendix A to Ordinance No. 1142, incorporated herein by reference. The system shall be operated in accordance with performance standards which meet or exceed FCC regulations. The system shall provide pay-per-view capabilities.

2. Construction Timetable. The rebuild shall be completed within one(1) year of the effective date of the Franchise. Prior to the initiation of construction of the rebuild, Grantee shall provide a neighborhood construction schedule which details the anticipated timeframe for construction in each neighborhood and area of the City.

3. Construction Oversight. Grantee will inspect 100% of all fiber and coaxial cable to insure that it meets the specifications of this chapter and Chapter 112. The Grantee shall designate an employee to act as a company representative by responding to public service complaints on a daily basis during the upgrade and provide the City with the person's name and telephone number.

4. Compliance with Applicable Law. In constructing, operating and maintaining the system, the Grantee shall at all times comply with this chapter and Chapter 112 and all other applicable laws and regulations.

5. Drop Audit. Two years after the completion of the upgrade, Grantee shall have audited and tested ninety-five percent (95%) of the subscriber drops in the City and all drops not meeting the standards of the *National Electric Code* shall be replaced when found to be substandard. The system shall be designed to allow each subscriber drop to provide service to four (4) television outlets.

6. Equipment Quality. Equipment used for the distribution system, headend and reception facilities shall be of good and durable quality and be serviced and repaired on a regular basis and shall at all times be equal or better quality than the equipment listed in Appendix C attached to Ordinance No. 1142 and incorporated by reference.

7. Converters. Grantee shall provide, for current replacement needs, a converter equal or better than the Converter Regal RR 92 or its equivalent. All programming services exclusively offering adult rated programming shall provide

picture and audio scrambling of services not purchased by a specific subscriber. Grantee shall maintain its trap system until the introduction of the converters described above and be available thereafter, as needed, for subscribers not utilizing converters.

8. Emergency Alert. Grantee shall provide an all-channel audio-only emergency alert system for use by the City no later than April 1, 1999. Emergency messages can be initiated from any touch tone phone with an access code. This emergency alert service shall be upgraded throughout the Franchise term as set forth in FCC rules, regulations, or guidelines. The Grantee shall not be held responsible for any failure of the emergency alert system to operate during any emergency, provided that the emergency alert system is in good repair and is operational as required by FCC regulations and this Franchise Agreement.

9. Conversion. Subscribers shall not be charged by Grantee for conversion from the existing Cable System to the upgraded Cable System. In the event that special additional or customized equipment is requested by any subscriber or is required to provide service to any subscriber, Grantee may charge the subscriber for such equipment. Grantee will notify subscribers and the public in general of the cutover, using at least two of the following: bill stuffers; direct mail; news releases; radio announcements; CSR training; and community bulletin board announcements.

10. Technical Standards. The Cable System permitted to be operated hereunder shall be operated in conformance with Chapter 112, this chapter, and FCC rules and regulations. At such time as the FCC does not regulate technical standards, Grantee will continue to comply with the FCC standards which were in effect on the effective date of the Franchise.

11. Stereo. Upon completion of the upgrade, the system will have the capability and shall provide Broadcast Television Systems Committee (BTSC) stereo signals.

Grantee shall provide written notice to the City verifying completion of the system upgrade.

111.07 CAPITAL EQUIPMENT GRANT; COMMUNITY PROGRAMMING. Within 60 days after passage of the Franchise Agreement, the Grantee will provide the City with $11,500 for the purchase of up-front capital equipment and/or facilities as the City deems necessary, provided that City also provides $11,500 funding for capital equipment and facilities. The City shall provide proof of such expenditures to Grantee no later than two (2) years from the commencement of the Franchise Agreement.

111.08 ACTIVATED CHANNELS; PROGRAMMING. Prior to the completion of the system upgrade, the Grantee shall provide a minimum of thirty-six (36) activated channels on the Cable System. After the completion of the system upgrade, the Grantee shall provide forty-two (42) activated channels on the Cable System on the basic and expanded basic levels of service and shall add the following additional types of programming: religious, science fiction, educational, historical and weather programming. Grantee shall retain the sole right to change the number and types of programming available on the Cable System on service tiers throughout the term of the Agreement.

111.09 SERVICE AREA.

1. Service to Potential Subscribers. Grantee shall offer cable television residential service to all areas of the City which are in the corporate limits of the City on the effective date of the Franchise.

2. Extensions of Service. The Grantee shall at its expense, promptly extend its system to have service available to all residents of:

A. Newly annexed areas of the City not then served by a Cable System where the average density is at least twenty (20) dwelling units per lineal mile of proposed trunk and feeder cable route.

B. New housing areas developed within the City limits, providing the new areas developed meet the requirements of paragraph A of this subsection.

C. Any new or existing single family dwelling unit, multiple dwelling unit, or other residential unit or commercial establishment within two hundred (200) feet of existing distribution system in the City shall be extended if desired by the resident, owner, or tenant. Installation of cable in situations applicable under this section shall be installed simultaneous with electrical and telephone utilities when possible.

111.10 FRANCHISE NONEXCLUSIVE. Consistent with the requirements of Chapter 112, this chapter shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The City specifically reserves the right to grant at any time during the term of the Franchise or renewal thereof, if any, such additional Franchises for a Cable System as it deems appropriate.

111.11 POLICE POWERS. In accepting the Franchise, Grantee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general ordinances necessary for the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such powers.

111.12 TRANSFER OF FRANCHISE. The Grantee's right, title or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the City. Such consent shall not be unreasonably withheld. Grantee must obtain approval for any change of actual working control of the Agreement, except for the change of control of the parent company of the Grantee to AT&T Corporation. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise in order to secure indebtedness. Within 30 days of receiving the request for transfer, the City shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.

111.13 INSURANCE COVERAGE AND NOTIFICATIONS. The Grantee shall maintain insurance in such amounts and kinds of coverage as may be specified by the City in the Franchise Agreement. Such coverage may be reasonably adjusted by the City with ninety (90) day notification, provided that the City demonstrates the need for increases in coverage. The Grantee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa. All policies shall name the City, its employees, servants, agents, and officers as additional insured parties. Each policy shall provide that it may not be canceled or the amount of coverage altered until thirty (30) days after receipt by the City Clerk of a registered mail notice of such intent to cancel or alter coverage. The Grantee shall provide a certificate of insurance designating the City as an additional insured. The Grantee shall maintain and provide to the City Clerk proof of Public Liability Insurance for not less than the following amounts:

$2,000,000 – Any 1 Occurrence, Bodily Injury or Property Damage

$2,000,000 - Products/Completed Operations Annual Aggregate Liability

$2,000,000 - General Aggregate

111.14 NOTIFICATION TO CITY OF SERVICE INTERRUPTIONS. The Grantee shall promptly notify the City, within twenty-four (24) hours, in writing, or if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" means

any interruption of audio or video on one (1) or more channels for a duration of at least one (1) hour to at least five percent (5%) of the subscribers, or an interruption of audio or video on at least one (1) or more channels initiated by the Grantee of at least four (4) hours to any single subscriber.

111.15 EQUAL PROTECTION. In the event the City enters into a Franchise, permit, license, authorization, or other agreement of any kind with any other person other than the Grantee to enter into the City's public ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

111.16 FORCE MAJEURE. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate and control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable and/or equipment is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

111.17 ENFORCEMENT.

1. Notice of Violation. In the event that the City believes that the Grantee has not complied with the terms of the franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

2. Grantee's Right to Cure or Respond. The Grantee shall have 30 days from receipt of the notice described in subsection 1 (a) to respond to the City, contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 1 pursuant to the procedures set forth in subsection 2, or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to subsection 2 above, the City shall schedule a public hearing to investigate the default. The City shall notify the Grantee in writing of the time and place of such meeting no less than five business days in advance and provide the Grantee with an opportunity to be heard.

4. Enforcement. In the event the City, after such public hearing, determines that the Grantee is in default of any provision of the franchise, the City, subject to applicable Federal law, may:

A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;

B. Commence an action at law for monetary damages or seek other equitable relief; or

C. In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked in accordance with the procedures outlined in this section.

The City shall give written notice to the Grantee of its intent to revoke the franchise on the basis of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have 30 days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response satisfactory from the Grantee, it may then seek termination of the franchise at a public meeting. The City shall cause to be served upon the Grantee, at least five (5) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination. At the designated meeting, the City shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the City "de novo" and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within 120 days of the issuance of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

111.18 TERMINATION OF FRANCHISE. The City reserves the right to revoke the franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

1. If the Grantee should default in the performance of any of its material obligations under this chapter or Chapter 112 and fails to cure the default within sixty (60) days after receipt of written notice of the default from the City, or such longer time as specified by the City.

2. If a petition is filed by or against the Grantee under the Bankruptcy Act or any other insolvency or creditors' rights law, State or Federal, and the Grantee shall fail to have it dismissed.

3. If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets.

4. If the Grantee makes an assignment for the benefit of creditors.

5. If the Grantee violates any order or ruling of any State or Federal regulatory body having jurisdiction over the Grantee, unless the Grantee or any party similarly affected is lawfully contesting the legality or applicability of such order or ruling and has received a stay from a Court of appropriate jurisdiction.

6. If the Grantee evades any of the provisions of this chapter or of Chapter 112 of this Code of Ordinances.

7. If the Grantee practices any fraud or deceit upon the City or cable subscribers.

8. If the Grantee materially misrepresents facts in the application for a franchise.

9. If the Grantee ceases to provide services over the cable system for seven (7) consecutive days for any reason within the control of the Grantee.

111.19 SECURITY FUND; LETTER OF CREDIT. In addition to any other right of enforcement provided in this Code of Ordinances, the Grantee shall establish the following security to ensure performance of the Grantee.

1. Amount. Within thirty (30) days of the effective date, Grantee shall establish and provide to the City an irrevocable and unconditional letter of credit (LOC) as security for the faithful performance by Grantee of all of its obligations under this Agreement. The LOC shall be ten thousand dollars ($10,000).

2. Use. The City may draw on the LOC to ensure the Grantee's faithful performance of and compliance with this Agreement provided that Grantee has received prior written notice of determination of breach of this Agreement and thirty (30) days opportunity to cure, and further provided that if such draw is for the purpose of enforcing any liquidated damages obligations of this Agreement, all provisions of Section 111.17 of this chapter have been met and no stay has been granted. The City's right to draw on the LOC hereunder may include, by way of example and not limitation, if Grantee fails to comply with any provisions of this Agreement which failure the City determines can be remedied by expenditure from the LOC. The City shall notify Grantee of the amount and date of withdrawal. Grantee's recourse, in the event the City believes any draw upon the LOC is improper, shall be through legal action even after the LOC has been drawn upon. If the City's action or taking is found to be improper by any court of competent jurisdiction, Grantee shall be entitled to a refund of any improperly withdrawn funds plus interest and/or any other specific performance which such court or agency shall order.

3. Restoration of Fund. Within fifteen (15) calendar days after City gives Grantee written notice that the LOC has been drawn upon, Grantee must take all steps required to restore the LOC to the original amount.

4. Return of Fund. Grantee's obligation to maintain the LOC shall survive the termination of the Franchise, until all obligations to the City have been satisfied. However, if the franchise terminates for any reason, and the Grantee ceased to provide service in the City, and the City has determined that Grantee has fulfilled its obligations and is not in default, the Grantee's obligations shall also terminate.

111.20 BONDING REQUIREMENTS. The Grantee shall provide a Corporate Guarantee in lieu of a bond executed by Heritage Investments, in the amount of $100,000 to secure the faithful performance by the Grantee of its obligations under the Franchise Agreement. This guarantee, however, shall not limit the liability of the Grantee for any failure to perform its obligations under this Franchise Agreement

111.21 ENTIRE AGREEMENT. This chapter constitutes the entire agreement between the parties and supersedes any and all previous agreements of whatever nature between the

parties with respect to the subject matter. This chapter shall not be changed, amended, or supplemented except by an agreement in writing signed by both parties. In the event of a conflict between this chapter and Chapter 112 or any other enabling ordinance, law or regulation in effect at the time of this agreement or thereafter, the terms and conditions of this agreement shall be controlling, unless otherwise contrary to State or Federal law. The City may, from time to time, amend Chapter 112 pursuant to its lawful police powers; provided, however, such amendments shall not serve to impair the rights or increase the obligations of the Grantee pursuant to this chapter except if any said amendments are required by any Federal or State law.

111.22 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by this chapter to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.

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CHAPTER 112

CABLE TELEVISION REGULATIONS

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112.01 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. "Basic cable" means the lowest priced tier of service that includes the retransmission of local broadcast television signals.

2. "Cable Act" collectively means the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as amended.

3. "Cable operator," "cable service" and "cable system" are defined as the same definitions used in the Cable Act.

4. "FCC" means the Federal Communications Commission or successor governmental entity thereto.

5. "Franchise" means the initial authorization or renewal thereof issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the cable system.

6. "Grantee" means any person, firm, corporation or other entity granted a franchise hereunder, or the lawful successor, transferee or assignee thereof.

7. "Gross revenues" means any and all revenue received by the Grantee from the operation of the cable system in the service area; provided, however, such phrase does not include any fees or franchise fees or taxes which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Grantee on behalf of such governmental unit or agency.

8. "Headend" means the land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a broad-band telecommunications network.

9. "House drop" means a cable that connects each building or home to the nearest feeder line of the cable network.

10. "Normal business hours" means those hours during which most similar businesses in the community are open to serve subscribers. In all cases, "normal business hours" shall include some evening hours at least one night per week and/or some weekend hours.

11. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, strikes, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee 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.

12. "Outlet" means the point of connection of the cable or wire to a television.

13. "Person" means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

14. "Private property" means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

15. "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.

16. "Public access channel" means (a) channel capacity designated for public use; and (b) facilities and equipment for the use of such channel capacity. The Grantee expressly reserves the right to treat (b) as an external cost subject to and consistent with FCC rules and regulations.

17. "Public property" means all property, real, personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

18. "Public way" means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. "Public way" also means any easement now or hereafter held by the City within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purpose of installing or transmitting Grantee's cable service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

19. "Service area" means the present municipal boundaries of the City.

20. "Service interruption" means the loss of video or audio on one or more channels.

21. "Service tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

22. "Subscriber" means a person or user of the cable system who lawfully receives cable services or other service therefrom with the Grantee's express permission.

112.02 FRANCHISE REQUIRED. Subject to Federal and State law, no person shall construct, install, maintain or operate within any public street in the City, or within any other public property of the City, any equipment or facilities for the distribution of television signals over a cable system to any subscriber, unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this chapter and unless such franchise is in full force and effect.

112.03 PURPOSE. The purpose of this chapter is to specify requirements for the establishment, construction, operation and maintenance of a cable system in the City pursuant to Chapter 364, Code of Iowa, and applicable Federal law. If a new applicant submits a proposal acceptable to the City, meets the requirements of this chapter and those

of the FCC and receives a majority of the votes cast in a franchise election, the City may then proceed to enter into a nonexclusive franchise agreement with such prospective Grantee, subject to the provisions of this chapter. If the incumbent operator submits a proposal acceptable under the terms of the Cable Act and meets the requirements of the FCC, the City shall proceed to fulfill its obligations under Section 626 of the Cable Act.

112.04 LENGTH OF FRANCHISE. The term of a franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be negotiated by the City and the Grantee. The term of agreement will be specified in the Franchise Agreement. Such term shall not exceed ten (10) years. The City shall award a nonexclusive franchise to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto in the City, poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the operation and maintenance in the City of a cable system, and to furnish and to sell service from such cable system to the inhabitants of the City pursuant to the terms of this chapter.

112.05 SIGNIFICANCE OF FRANCHISE.

1. Franchise Nonexclusive. Any franchise granted hereunder by the City shall not be exclusive and the City reserves the right to grant a similar franchise to any person at any time.

2. Privileges Must Be Specified. No privilege of exemption shall be inferred from the granting of any franchise, unless it is specifically prescribed.

3. Authority Granted. Any franchise granted hereunder shall give to the Grantee the right and privilege to construct, erect, operate, modify and maintain, in, upon, along, above, over and under streets, as defined herein, which have been or may hereafter be dedicated and open to public use in the City, towers, antennas, poles, cables, electronic equipment, and other network appurtenances necessary for the operation of a cable system in the City, subject to the requirements of this chapter.

4. Subject to Other Regulatory Agencies Rules and Regulations. The Grantee shall at all times during the life of any franchise granted hereunder be subject to all lawful exercise of the police power by the City and other duly authorized regulatory State and Federal bodies and shall comply with any and all ordinances which the City has adopted or shall adopt applying to the public generally and to other grantees.

5. Pole Use Agreements Required. Any franchise granted hereunder shall not relieve the Grantee of any obligation involved in obtaining pole or conduit-use agreements from the gas, electric and the telephone companies or others maintaining poles or conduits in the streets of the City, whenever the Grantee finds it necessary to make use of said poles or conduits.

6. Ordinance Revisions. Any franchise granted under this chapter is made subject to any revisions of this chapter and the general ordinances of the City, provided that such revisions do not materially alter or impair the obligations of the Grantee set forth in any Franchise Agreement and are mutually agreed to by the City and Grantee.

112.06 RIGHTS RESERVED TO THE CITY.

1. Right of Amendment Reserved to City. The City may from time to time add to, modify or delete provisions of this chapter as deemed necessary in the lawful exercise of its police powers and as may be mutually agreed to by the City and Grantee. Such additions or revisions shall be made only after a public hearing for which the Grantee shall have received written notice at least thirty (30) days prior to such hearing.

2. No Impairment of City's Rights. Nothing herein shall be deemed or construed to impair or affect in any way to any extent the right of the City to acquire the property of the Grantee, pursuant to Iowa law.

3. Grantee Agrees to City's Rights. The City reserves every right and power which is required to be reserved or provided by an ordinance of the City, and the Grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its lawful exercise of such rights or police powers which have been or will be enacted or established subject to the provisions of subsection 1.

4. Powers of the City. Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

5. City Transfer of Functions. Any administrative right or power in or administrative duty imposed upon any elected official of the City shall be subject to transfer by the City to any other elected official, officer, employee, department or board.

6. City Right of Inspection. The City reserves the right, during the life of any franchise granted hereunder, to inspect and supervise all construction or installation work performed.

7. City Right of Network Installation. The City reserves the right during the life of any franchise granted hereunder to install and maintain for a reasonable charge upon or in the poles and conduits of the Grantee and pole fixtures necessary for municipal networks on the condition that such installation and maintenance thereof does not interfere with the operation of the Grantee. Provided, however, the Grantee agrees that such compensation or charge shall not exceed those paid by it to public utilities pursuant to the applicable pole attachment agreement or other authorization relating to the service area.

112.07 APPLICATION FOR FRANCHISE. No initial franchise may be granted unless the applicant has successfully completed the application procedure in accordance with filing instructions promulgated by the City:

1. Filing Fee. Payment of a non-refundable filing fee to the City of one hundred dollars ($100.00) which sum shall be due and payable at the time with the submission of the application.

2. Content. All applicants must complete an application which shall include, but not be limited, to the following:

A. Name and Address of Applicant. The name and business address of the applicant, date of application, and signature of applicant or appropriate corporate officer(s).

B. Description of Proposed Operation. A general description of the applicant's proposed operation, including but not limited to business hours, operating staff, maintenance procedures beyond those required in the chapter, management and marketing staff policies and procedures, and, if available, the rules of operation for public access.

C. Signal Carriage. A statement of the television and radio services to be provided, including both off-the-air and locally originated signals.

D. Special Services. A statement setting forth a description of the automated services proposed as well as a description of the production facilities to be made available by the Grantee for the public, governmental

and educational channels required to be made available by the provisions of this chapter.

E. Corporate Organization. A statement detailing the corporation organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director.

F. Stockholders. A statement identifying the number of authorized outstanding shares of applicant's stock including a current list of the names and current addresses of its shareholders holding five percent (5%) or more of the applicant's outstanding stock.

G. Inter-Company Relationships. A statement describing all inter-company relationships of the applicant, including parent, subsidiary or affiliated companies.

H. Agreements and Understandings. A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other person with respect to any franchise awarded hereunder and the conduct of the operation thereof existing at the time of proposal submittal.

I. Financial Statement. A copy of the financial statements for the two (2) previous fiscal years.

J. Financial Projection. A five (5) year operations pro forma which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets, and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this chapter, but shall be separately identified in the pro forma.

K. Financial Support. Suitable written evidence from a recognized financing institution, addressed to both applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution is prepared to make the required funds available to applicant if it is awarded a franchise. If the planned operation is to be internally financed, a board resolution shall be supplied authorizing the

obtainment and expenditure of such funds as are required to construct, install and operate the cable television system contemplated hereunder.

L. Construction Timetable. A description of system construction including the timetable for provision and extension of service to different parts of the City.

M. Technical Description. A technical description of the type of system proposed by the applicant, including but not limited to system configuration, (i.e. hub, dual cable), system capacity, two-way capability, etc.

N. Existing Franchises. A statement of existing franchises held by the applicant indicating when the franchises were issued and when the Cable Systems were constructed and the present state(s) of the Cable System(s) in each respective governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant.

O. Convictions. A statement as to whether the applicant or any of its officers or directors or holders of five percent (5%) or more of its voting stock has in the past ten (10) years been convicted of or has any charges pending for any crime other than a routine traffic offense and the disposition of each such case.

P. Operating Experience. A statement detailing the prior cable television experience of the applicant, including that of the applicant's officers, management and staff to be associated, where known, with the proposed franchise.

Q. Supplementation to Applications. The City reserves the right to require such supplementary, additional or other information that the City deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the City.

112.08 ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE.

1. Franchise Acceptance Procedures. Any franchise awarded hereunder and the rights, privileges and authority granted thereby shall take effect and be in force

from and after the award thereof, provided that the Grantee shall file with the City the following:

A. A statement by the Grantee of the unconditional acceptance of the franchise;

B. A certificate of insurance as set forth herein;

C. Reimbursement to the City for the costs of publication of the franchise ordinance and the holding of the election connected therewith, if required by law.

2. Grantee To Have No Recourse. The Grantee shall have no monetary recourse whatsoever against the City for any loss, cost, expense, or damage arising out of any provision or requirement of this chapter or its regulation. This shall not include negligent acts of the City, its agents or employees which are performed outside the regulatory or franchise awarding authority hereunder.

3. Acceptance of Power and Authority of City. The Grantee expressly acknowledges that in accepting any franchise awarded hereunder, it has relied upon its own investigation and understanding of the power and authority of the City to grant the franchise.

4. Inducements Not Offered. The Grantee, by acceptance of any franchise awarded hereunder, acknowledges that it has not been induced to enter into the franchise by any understanding or promise or other statement, whether verbal or written, by or in behalf of the City concerning any term or condition of the franchise that is not included in this chapter.

5. Grantee Accepts Terms of Franchise. The Grantee acknowledges by the acceptance of the franchise and the terms herein and in this chapter that it has carefully read said terms and conditions and it is willing to and does accept all other obligations of such terms and conditions and further agrees that it will not claim that any provision of this chapter or any franchise granted hereunder is unreasonable or arbitrary.

6. Incorporation of Proposals. The Grantee, by the acceptance of any franchise awarded hereunder, agrees that the matters contained in the Grantee's application for franchise and as stated in oral presentations, except as inconsistent with the FCC

rules and regulations, law or ordinance, shall be incorporated into the franchise as through set out verbatim.

7. Forfeiture of Proposal Bond. Should the Grantee fail to comply with subsection 6 above, it shall acquire no rights, privileges or authority under this chapter whatever, and the amount of the proposal bond or certified check in lieu thereof, submitted with the application, shall be forfeited in full to the City as liquidated damages.

112.09 GEOGRAPHICAL COVERAGE. The Grantee shall provide a cable system in such manner as to pass and provide adequate tap off facilities for every single family dwelling unit, multiple dwelling unit or other residential unit and commercial, and industrial establishment within the service area, subject to the provisions of Section 112.15.

112.10 CONDITIONS OF STREET OCCUPANCY. All transmissions and distribution structures, poles, lines and equipment installed or erected by the Grantee pursuant to the terms hereof shall be so located as to cause minimum interference with the proper use of public ways, and with the rights and reasonable convenience of property owners who own property which adjoins any of said public ways. A Grantee shall first obtain a permit from the City prior to commencing construction on the streets, alleys, public grounds or places and shall be on a form provided by the City. A Grantee shall not open or disturb the surface of any street, sidewalk, driveway or public place for any purpose without having first obtained a permit to do so in the manner provided by ordinance. All excavation shall be coordinated with other utility excavation or construction so as to minimize disruption to the public.

112.11 RESTORATION OF PUBLIC WAYS. If during the course of Grantee's construction, operation or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, the Grantee shall, at its own expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

112.12 RELOCATION AT REQUEST OF CITY. Upon its receipt of reasonable advance notice, not to be less than ten (10) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way or remove from the public way any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes or any other type of structures or improvements by the City; but the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using

such street, easement or right-of-way for the purpose of defraying the cost of any of the foregoing, the City shall make application for such funds on behalf of the Grantee.

112.13 SAFETY REQUIREMENTS. Construction, installation and maintenance of the system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with the applicable FCC or other Federal, State and local regulations and the *National Electric Safety Code*. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

112.14 UNDERGROUND AND ABOVE GROUND INSTALLATION.

1. Pole Agreements. The Grantee may lease, rent or in any other manner by mutual agreement obtain the use of towers, poles, lines, cables and other equipment and facilities from utility companies operating within the City, and use towers, poles, lines, cables and other equipment and facilities for the system. When and where practicable, the poles used by the Grantee's distribution system shall be those erected and maintained by such utility companies operating within the City, provided mutually satisfactory rental agreement can be reached. It is the City's desire that all holders of public franchises in the City cooperate with the Grantee and allow the Grantee the use of their poles and pole line facilities whenever possible so as to minimize the number of new or additional poles installed in the City.

2. Grantee's Poles. The Grantee shall have the right to erect, install and maintain its own towers, poles, guys, anchors, underground conduits and manholes as may be necessary for the proper construction and maintenance of the antenna site, headend and distribution system, providing that the Grantee has at the work site the necessary City permits or copies thereof for schedule work, obtained in advance from the appropriate Department of the City.

3. Rent of Grantee's Poles. The Grantee shall have the right to establish terms, conditions, and specifications governing the form, type, size, quantity, and location of equipment of others on its poles, and shall have the further right to charge a fair rental for attachment space or spaces occupied by the said equipment and plant of others. The City shall pay any costs incurred by the Grantee in providing space for the City's attachments, including any necessary rearrangements of the Grantee's equipment and plant to provide room for City's attachments. Upon expiration, termination, or revocation of a franchise, or should a Grantee wish to dispose of any of its poles, conduit or manholes, being used by the City, the City shall have the option to purchase them in place for their fair market value.

4. Underground Facilities In those areas of the City where transmission or distribution facilities of both telephone and power companies are underground or hereafter may be placed underground, the Grantee shall likewise construct, operate, and maintain all of its transmission and distribution facilities underground to the maximum extent the then existing technology permits, in accordance with the most recent *National Electrical Code*, and its successor document, as well as in conformance with all applicable State and municipal ordinances and codes. If and when necessary, amplifiers and/or transformers in the Grantee's transmission and distribution lines shall be in appropriate housings on the surface of the ground. The Grantee shall obtain a permit from the City for such housings and the location and construction of all work required or pursuant to this section. Even when not required, underground installation is preferable to the placing of additional poles.

5. Compliance To Codes. All transmission and distribution structures, lines and equipment erected by the Grantee in the City shall be located so as not to endanger or interfere with the normal use of streets, alleys, or other public ways and places so as to cause minimum interference with the rights or reasonable convenience of the general public and adjoining property owners and so as not to interfere with existing public utility installations and so as to comply with the most recent *National Electrical Code*, and its successor document, as well as in conformance with all applicable State and municipal ordinances and codes of general applicability. In the case of any disturbance by the Grantee or its equipment of pavement, sidewalks, driveway, lawn, or other surfacing the Grantee shall, at its expense and in the manner required by the City, promptly replace and restore all such surfacing to its prior or better condition. The construction, installation, operation, maintenance, and/or removal of the Cable Communications System shall meet all of the following safety and construction standards:

A. Occupational Safety and Health Administration Regulations (OSHA)

B. National Electric Safety Code

C. National Electrical Safety Code (NESC)

D. All Building and Zoning Codes and all land use restrictions of this Code of Ordinances

6. Interference with Other Utilities. The Grantee shall not place poles, conduits or other fixtures above or below ground where the same shall interfere with any gas, electric, telephone fixtures, water hydrant or other utilities and all such poles,

conduits or other fixtures above or below ground shall be so placed as to comply with all the requirements of the City.

7. Moving Permits. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid in advance by the person requesting the same, and the Grantee shall be given not less than fifteen (15) working days' advance notice to arrange for such temporary changes.

8. Authority to Trim Trees. The Grantee shall have the authority under the supervision and direction of the City to trim trees and other natural growth overhanging any of its cable system in the street or alley right-of-way so as to prevent the branches from coming in contact with the Grantee's wires, cables and other equipment. The Grantee shall reasonably compensate the City or property owner for any damages caused by such trimming or shall, in its sole discretion, and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the cable system undertaken by the Grantee. Such replacement shall satisfy any and all obligations Grantee may have to the City pursuant to the terms of this section.

9. Service Area. The Grantee shall design and construct the cable system in such a manner as to pass by and provide adequate tap-off facilities for every single family dwelling, multiple family dwelling, apartment, school and government building located within the City limits, based upon the corporate boundaries at the time of the granting of the franchise, provided that such locations meet the density requirements pursuant to Section 112.15.

10. Underground Construction. Grantee shall participate in and use *Iowa One Call* and ensure that cable is buried pursuant to standards established by *Iowa One Call*.

11. Temporary Drops. Temporary cable drops shall be buried within thirty (30) days of installation.

112.15 EXTENSION OF SERVICE. The Grantee shall, at its expense, promptly extend its system to have service available to all residents of:

1. Newly annexed areas to the City not then served by a system where the average density is at least twenty (20) dwelling units per lineal mile of proposed trunk and feeder cable route.

2. New housing areas developed within the City limits, providing the new areas developed meet the requirements of subsection 1.

3. Any new single family dwelling unit, multiple dwelling unit or other residential unit or commercial establishment which shall be extended simultaneously with electric power and telephone utilities, subject to the requirements of subsection 1.

4. The Grantee shall submit to the City, upon request, a written line policy which shall provide that cable service will be extended to potential subscribers who become located within two hundred (200) feet of distribution cable.

5. No subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as the existence of more than 200 feet of distance from distribution cable to the connection of service to subscribers, or a density of less than 20 potential subscribers per lineal mile of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and subscribers in the areas in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of potential subscribers per lineal mile of its trunks or distribution cable, and whose denominator equals 20 potential subscribers. Subscribers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance.

112.16 SERVICE TO PUBLIC BUILDING. The Grantee shall, upon request, provide without charge, one outlet of basic service and expanded basic service to those public buildings which shall include, but are not limited to, the following locations:

1. Indianola City Hall

2. Indianola Public Library

3. Warren County Courthouse

4. Indianola Community High School

5. Indianola Middle School

6. Irving Elementary School

7. Emerson Elementary School

8. Whittier Elementary School

9. Indianola School Administration Building

10. Indianola Alternative Learning Center

The outlets shall not be used to distribute or sell services in or throughout such buildings. Users of such outlets shall hold the Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. If additional outlets are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials.

112.17 CUSTOMER SERVICE STANDARDS – FCC MODEL. The Grantee agrees to adhere to the FCC's customer service standards. A copy of such standards effective as of the date of the passage of Ordinance No. 1141 is attached to such ordinance and on file in the office of the Clerk.

112.18 LOCAL OFFICE. A business and service office, conveniently located within the City, shall be open during normal business hours, and adequately staffed to accept subscriber payments and respond to service requests and complaints. In lieu of a local office, the Grantee may provide an agent of the Grantee to receive subscriber payments or a secure weather-tight payment drop box that shall be located in the service area on a site readily accessible to the general public.

112.19 DEPOSITS. If required by Federal law, the Grantee shall bear interest at the current lending rate on any subscriber deposit.

112.20 SUBSCRIBERS' ANTENNAS. The Grantee shall not require the removal, or offer to remove or provide any inducements for removal of any potential or existing subscriber's antenna as a condition of provision of service.

112.21 DISCONNECTION. There shall be no charge for a total disconnection of cable service, provided that the subscriber's account is current and paid in full. If any subscriber fails to pay a fee or charge, the Grantee may disconnect the subscriber's service. Such disconnection shall not be effected until the subscriber has been given ten (10) days' advance written notice of the intention to disconnect. After disconnection, upon payment of any required delinquent fee or reconnection charge, the Grantee shall reinstate the subscriber's service.

112.22 RECONNECTIONS. Grantee shall restore service to customers wishing restoration of service provided customer shall first satisfy any previous obligations owed.

112.23 DOWNGRADES. Subscribers shall have the right to have cable service disconnected or downgraded in accordance with FCC rules. The billing for such service will be effective immediately and such disconnection or downgrade shall be made as soon as practicable. A refund of unused service charges shall be paid to the customer within forty-five (45) days from the date of termination of service.

112.24 TERMINATION OF SERVICE. Within 30 days of termination of service to any subscriber for any reason, the Grantee may, upon the subscriber's written request, promptly remove all its aerial facilities and equipment from the subscriber's premises, pursuant to FCC rules and regulations.

112.25 NOTIFICATION TO CITY OF SERVICE INTERRUPTIONS. The Grantee shall promptly notify the City, within twenty-four (24) hours, in writing, or, if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" means any interruption of audio or video on one (1) or more channels a duration of at least one (1) hour to at least five percent (5%) of the subscribers, or an interruption of audio or video on at least one (1) or more channels initiated by the Grantee of at least four (4) hours to any single subscriber.

112.26 SUBSCRIBER CREDIT FOR SERVICE INTERRUPTIONS. Upon service interruption of subscriber's cable service, the following shall apply:

1. For service interruptions of over four (4) hours and up to fourteen (14) days, the Grantee shall provide, at the subscriber request, a credit of one-thirtieth (1/30) of one month's fees for affected services for each 24-hour period service is interrupted for four (4) or more hours for all affected subscribers.

2. For interruptions of fifteen (15) days or more in one month, the Grantee shall provide, at the subscriber's request, a full month's credit for affected services for all affected subscribers, except in situations beyond the control of the Grantee.

112.27 SERVICE REPAIR STANDARDS. The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled service interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the cable system.

112.28 REFUNDS TO SUBSCRIBERS.

1. If the Grantee fails to provide any material service requested by a subscriber in accordance with the current FCC standards, the Grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber.

2. If any subscriber terminates for any other reason, the Grantee shall refund the unused portion of any prepaid subscriber service fee on a daily pro rata basis.

3. Any disputes arising under this section shall be finally resolved in accordance with Section 112.46 of this chapter.

112.29 CHANNEL GUIDE. The Grantee shall prepare and make available at no charge to the subscribers, an accurate and up-to-date channel guide listing the cable channels and services available over the cable system. The channel guide shall be distributed to every new subscriber, and within thirty (30) days after a change or addition in channels or services offered affecting three (3) or more channels.

112.30 CUSTOMER HANDBOOK. Grantee shall provide written customer policies or a handbook to all new subscribers and, thereafter, upon request. Grantee's written customer policies or handbook shall, at a minimum, comply with all notice requirements promulgated by the FCC. If Grantee's operating rules are changed, subscribers shall be notified in a timely manner.

112.31 SUBSCRIBER PRIVACY. The Grantee shall be constantly alert to possible abuses of the right of privacy or other legal rights of any subscriber, programmer, or general citizen resulting from any device or signal associated with the cable system. The possibility of such abuse shall be discussed at every scheduled review session. The Grantee shall abide by current Federal law and FCC regulations and Section 631 of the Cable Act regarding protection of subscriber privacy.

112.32 DISCRIMINATORY OR PREFERENTIAL PRACTICES. The Grantee shall not, in making available the services or facilities of its cable system, or in its rules or regulations, or in any other manner, make or grant preferences or advantages to any subscriber or potential subscriber, or to any user or potential user, and shall not subject any person to any prejudice or disadvantage, based on their race, color, national origin or gender. This provision shall not prohibit promotional campaigns to stimulate subscriptions to the cable system or other legitimate uses thereof, nor the establishment of a graduated scale of charges and classified rate schedules to which any subscriber coming within such classification shall be entitled.

112.33 IDENTIFICATION OF EMPLOYEES. Every employee of the Grantee shall be clearly identified by an identification card, badge or uniform shirt. All employees of Grantee shall display proper identification upon request of a subscriber. Every service truck of the Grantee shall be clearly marked.

112.34 SYSTEM DESIGN AND EQUIPMENT REQUIREMENTS.

1. All Channels Emergency Alert. The Grantee shall, in the case of any emergency or disaster, make its entire cable system available without charge to the City or to any other governmental or civil defense agency that the City shall designate. The cable system shall be engineered to provide an audio alert system to allow authorized officials to automatically override the audio signal on all channels and transmit and report emergency information pursuant to FCC regulations. The audio alert system shall be activated upon the completion of the system upgrade or system construction, but not later than five (5) years after the franchise has been granted by the City. The City shall hold the Grantee, its agents, employees, officers, and assigns hereunder, harmless from any claims arising out of the emergency use of its facilities by the City, including, but not limited to, reasonable attorney's fees and costs.

2. Switching Device. The Grantee, upon request from any subscriber, shall install at a reasonable cost a switching device to permit a subscriber to continue to

utilize the subscriber's television antenna. The Grantee shall not require the removal, or offer to remove, any subscriber's antenna lead-in wire.

3. Parental Control Devices. Upon request, and within one hundred twenty (120) days, Grantee shall provide at cost to subscribers, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible.

4. Education and Government Channels. During the term of the franchise, the Grantee shall provide at least one (1) specially dedicated, non-commercial education and government channel. Such channels shall be operated in accord with FCC rules and regulations. The Grantee shall make no charge for use of such channel. The City or its designee shall exercise sole control over the operation and shall establish rules providing for access to the education and government channel.

5. Access Equipment and Facilities Fees. If authorized by the City, and after sixty (60) days' notice from the City to the Grantee, the City shall provide ongoing support for public, educational, and governmental access equipment and facilities in the amount of not to exceed fifty cents ($.50) per subscriber per month for the entire term of the Franchise payable in the same manner as the franchise fee payment pursuant to Section 112.35 hereof. The City acknowledges that this amount shall not be considered gross revenues subject to the payment of franchise fees pursuant to Section 112.35 hereof. Furthermore, payments of this ongoing support shall not be deemed to be "franchise fees" within the meaning of Section 622 of the Cable Act and such payment shall not be deemed to be "payments-in-kind" or any involuntary payments chargeable against the compensation to be paid to the City by Grantee pursuant to Section 112.35 hereof. The Grantee shall be allowed to collect such fee as a pass through to cable subscribers.

6. Leased Access Channels. The Grantee shall make a portion of the remaining unused channels available for lease to any organization, group, or individual on a first-come, first-served basis as provided in this chapter and as required by Section 612 of the Cable Act of 1992, as amended.

7. Non-Subscriber Interference. The Grantee's system shall be designed, engineered, and maintained so as not to interfere with the television and radio reception of residents of the City who are not subscribers on the cable system.

8. Additional Services. The Grantee is encouraged to make available such additional video, voice, digital, point-to-point service, and other services as are requested by subscribers and programmers who are willing to pay for such services, provided that such services are technologically and economically feasible. If no applicable rate exists when such a service is requested, the rate change procedures established in Section 112.36 shall be followed. The Grantee shall undertake to apply for a certificate of compliance or waiver necessary to permit the provision of a specific additional service. Should a dispute arise over any matter regarding additional services, the dispute may be resolved in accordance with the provisions of this chapter relating to methods of resolving disputes. Nothing in this section shall preclude the offering of such new service on a temporary or experimental basis.

9. Miscellaneous Standards.

A. Methods of construction, installation, and maintenance of the cable television system shall comply with the most recent *National Electrical Code* to the extent that such Code is consistent with generally applicable local law affecting the construction, installation, maintenance of electric supply and communications lines. To the extent that such Code is inconsistent with other provisions of this chapter or with local law, the latter shall govern. The Grantee must obtain all necessary construction or excavation permits in advance from the City.

B. Installation and physical dimensions of any tower constructed for use in the cable television system shall comply with all appropriate Federal Aviation Agency regulations.

C. Any antenna structure used in the cable system shall comply with all appropriate local, State and Federal regulations.

D. All working facilities and conditions used during construction, installation, and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration.

E. Unless it is beyond the knowledge of the Grantee, the Grantee shall notify the City at least thirty (30) days prior to, or as soon as it is known by the Grantee, of any of the following changes:

(1) Addition to, deletion of or change in received channels.

(2) Addition to, deletion of or change in distributed channel or in channel conversion.

(3) Change in location of headend or antenna sites.

(4) Interconnection with other cable systems.

F. The cable system permitted to be operated hereunder shall be maintained and operated in conformance with FCC rules and regulations. Any FCC technical standards or guidelines related to the cable system and facilities shall be deemed to be regulations under this chapter. At such time as the FCC does not regulate technical standards, Grantee will continue to comply with the FCC standards which were effective prior to such discontinuance of regulation by the FCC.

10. Filing of Maps. Upon request of the City, the Grantee shall file with the City strand maps, showing the location of all property and facilities of the Grantee within the City.

112.35 FRANCHISE FEE.

1. Franchise Fee Payment. In consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a system within the City, the Grantee shall pay to the City a franchise fee as specified in a franchise agreement. This includes, but is not limited to, all subscriber payments, installation fees, converter boxes, leased access channels, and pay-per-view and other miscellaneous revenues paid by cable subscribers. This amount shall not include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Grantee on behalf of such governmental unit or agency.

2. Quarterly Payments. Payment due to the City under this provision shall be made quarterly at the City Clerk's office not later than forty-five (45) days following March 31, June 30, September 30 and December 31 of each year. Any fee not paid when due shall bear interest at a rate of one and one-half percent (1½%) per month from the date due. Each payment shall be accompanied with a detailed report showing the basis for the computation, specific income categories, and such other relevant facts as may be required by the City necessary to determine the accuracy of the franchise payments specified in Section 112.38 of this chapter. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact,

the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the Grantee. All amounts paid shall be subject to audit and recomputation by the City.

3. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be five (5) years from the date on which payment by the Grantee is due.

4. Franchise Fee Audit. The Grantee will fully cooperate with a franchise fee audit performed by a professional firm that is chosen by the City. The costs associated with the audit will be paid for by the City, provided that the Grantee shall pay for the costs if the audit shows an underpayment of franchise fees in excess of five percent (5%) or more. In addition, the City and Grantee will design a mutually agreeable form to be used by the Grantee that reflects a breakout of the items used to calculate the franchise fees paid to the City.

5. Franchise Fee Increases. The City may request an increase in franchise fees at any time during the term of the franchise, equal to the maximum allowed by Federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the City shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fee.

112.36 RATES AND CHARGES. The City may regulate rates for the provision of basic cable and equipment as expressly permitted by Section 623 of the Cable Act of 1992, as amended, and applicable Federal and State law. Any rate adjustments shall be filed with the City Clerk not later than 30 days prior to the implementation of the adjustment.

112.37 FRANCHISE RENEWAL. The City and the Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Grantee's franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of Federal or State law.

112.38 CONDITIONS OF SALE. If a renewal or extension of the Grantee's franchise is denied or the franchise is lawfully terminated, and the City either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the

cable system to another person, any such acquisition or transfer shall be at a price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

112.39 TRANSFER OF FRANCHISE.

1. Transfer of Franchise. Any franchise granted under this chapter shall be a privilege to be held for the benefit of the public. Any franchise so granted cannot, in any event, be sold, transferred, leased, assigned or disposed of, including, but not limited to, by forced or voluntary sale, except to an entity controlling, controlled by or under common control with the Grantee, without the prior written consent of the City. Such consent as required by the City, shall be given or denied no later than one hundred twenty (120) days following any request and shall not be unreasonably withheld. Prior consent shall not be required when transferring the franchise between wholly owned subsidiaries of the same entity, nor shall such consent be required for a transfer in trust, by mortgage, by other hypothecation, or assignment of any rights, title, or interest of the Grantee in the cable system in order to secure indebtedness.

2. Ownership or Control. In the event that the Grantee sells or otherwise transfers ownership in the cable system, such sale or transfer shall conform with Section 617 of the Cable Act. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the City may inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the City in any such inquiry. In seeking the City's consent to any change in ownership or control, the transferee shall have the responsibility:

A. To show to the satisfaction of the City whether the proposed purchaser, transferee, or assignee (the "proposed transferee), which in the case of a corporation, shall include all directors and all persons having a legal or equitable interest of fifty percent (50%) or more of the voting stock:

(1) Has ever been convicted or held liable for acts involving moral turpitude including, but not limited to, any violation of Federal, State or local law or regulations, or is presently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him, or them by any court of competent jurisdiction; or

(3) Has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system. The City retains the right to withhold approval of the transfer until the transferee has provided the information required in this subsection 2(A).

B. To establish, to the satisfaction of the City, the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee which the Grantee was required to submit in its franchise application, and such other data to determine the legal, financial, and technical qualifications of the transferee as the City may request, where the same shall be audited, certified and qualified by a Certified Public Accountant.

C. To establish to the satisfaction of the City and technical capability of the proposed transferee is such as shall enable it to maintain and operate the cable system for the remaining term of the franchise under the existing franchise terms.

3. Default in Financial Obligations. Any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the City that the financial institution, or its designee, as approved in writing by the City, shall take control and operate the cable system in the event of a Grantee default in its financial obligations. Further, said financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the cable system for a period exceeding one (1) year, unless extended by the City at its discretion, but during said period of time it shall have the right to petition the City to transfer the franchise to another Grantee. Except insofar as the enforceability of this subsection may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors rights generally, and further subject to applicable Federal, State or local law, if the City finds that such transfer, after considering the legal, financial, character, technical and other public interest qualities of the proposed transferee, is satisfactory, the City shall transfer and assign the right and obligations of such franchise as in the public interest.

4. Transfer. The consent or approval of the City to any transfer by the Grantee shall not constitute a waiver or release of the rights of the City in and to the streets,

and any transfer shall by its terms, be expressly subject to the terms and conditions of any franchise. In no event shall a transfer of ownership or control be approved without the successor in interest becoming a signatory of the Franchise Agreement. The City may approve the transfer or deny the transfer pursuant to Section 617 of the Cable Act. When the City approves a transfer under this section, the new Grantee shall indicate acceptance of the franchise as specified in Section 112.08, including the filing of all necessary bonds, funds, proofs of insurance and certifications.

The restrictions of this section shall be effective immediately upon execution of a franchise agreement.

112.40 RIGHT OF INSPECTION OF CONSTRUCTION. The City shall have the right to inspect all construction or installation work performed subject to the provisions of this chapter and to make such inspections pursuant to the provisions of Section 112.42 herein, as it shall find necessary to ensure compliance with the terms of this chapter and other pertinent provision of law.

112.41 NEW DEVELOPMENTS. The Grantee is encouraged to upgrade its facilities, equipment, and service so that its cable system is as advanced as the current state of production technology will allow. Such new developments shall be a topic of discussion at all review sessions and shall be a factor to be considered in connection with requests for rate adjustments, pursuant to FCC rules and regulations.

112.42 TESTING FOR COMPLIANCE. The City shall have the right to compel the Grantee to test, analyze, and report on the performance of the cable system. The City may also perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the cable system in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable State or Federal laws. Except in emergency circumstances, such tests may be undertaken only after giving the Grantee reasonable notice thereof, not to be less than two business days, and providing a representative of the Grantee has an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that the Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the City. Except in emergency circumstances, the City agrees that such testing shall be undertaken no more than once a year, and that the results thereof shall be made available to the Grantee. Any special performance tests or measurements required

by the City shall be reported to the City within fourteen (14) business days after such test or measurements are performed. Such report shall include the following information: the nature of the complaint which precipitated the special tests; what system component was tested, the equipment used, and procedures employed in said testing; the results of such tests; and the method in which such complaints were resolved. Any other information pertinent to the special test shall be recorded.

112.43 BOOKS AND RECORDS. The City or its certified public accountant upon reasonable notice to the Grantee may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature under State and Federal rules of evidence. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

112.44 COMMUNICATIONS WITH REGULATORY AGENCIES. Copies of all petitions, applications, communications, reports, and all other documents pertaining to the Indianola Cable System and franchise submitted by the Grantee or its parent companies to the FCC, or any other Federal or State regulatory commission or agency shall be made available to the City upon written request to the Grantee.

112.45 COMPLAINT RECORDS. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions and requests for cable service as required by this chapter. The Grantee shall maintain detailed logs setting forth the date and substance of each complaint received by phone, mail or other means during the preceding calendar month, and the date and nature of action taken by the Grantee to respond to such complaints, or, if still pending, the status thereof. Such logs shall be available to the City for review for two years thereafter.

112.46 CITY ROLE IN COMPLAINTS. Unresolved complaints concerning the system or its operation or maintenance shall be directed to the City Clerk. The City Clerk shall forward the complaint to the Grantee or shall take the question up by correspondence with the Grantee. The procedure to handle complaints and grievances with respect to subscriber complaints

and the quality of services rendered by Grantee, equipment malfunctions and other matters shall be as follows:

1. Within thirty (30) days from the occurrence of the facts and circumstances giving rise to a complaint or grievance, the complainant shall state his or her complaint or grievance to the Grantee in writing. In the event such a complaint or grievance is received by the City, the same shall be forwarded to Grantee in writing.

2. Within five (5) days after the receipt of a complaint or grievance by Grantee, Grantee shall state to complainant its intentions with respect to the complaint or grievance in writing.

3. In the event complaint or grievance is not resolved to the satisfaction of complainant within 15 days from the receipt thereof by Grantee, the complaint or grievance shall be settled by arbitration before three disinterested arbitrators, one named by complainant, one named by Grantee and one named by those two. The decision of the arbitrator shall be conclusive and shall be enforced in accordance with the laws of the State. The costs of the arbitration proceedings will be borne equally by the City and the Grantee.

4. All subscribers shall be notified by the Grantee at the time of their initial installation of these complaint procedures in writing.

5. Nothing herein shall limit or alter the requirement or requirements contained in this chapter and in Chapter 113 for customer service standards.

6. The City shall be notified of action taken to resolve grievances or complaints.

112.47 PERFORMANCE TESTING. Grantee shall perform all cable system tests and maintenance procedures as required by the FCC and this chapter.

112.48 REVIEW SESSIONS. In recognition of the fact that a great many technical, financial, marketing and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the City to provide for a maximum feasible degree of flexibility in the franchise throughout its term to achieve an advanced and modern cable system for the City. The principal means for accomplishing this flexibility will be the scheduled review sessions provided for in this chapter. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems that develop. Furthermore, such review sessions shall be two-way processes. For example, if either party has perceived that some major problem has developed, the session shall be

devoted primarily to working out solutions acceptable to both parties. The City and the Grantee shall hold scheduled review sessions no later than April 30 of every year for the duration of the franchise, but no more than once per three (3) year calendar period. The review sessions may be cancelled by mutual agreement of the City and Grantee. All such review sessions shall be open to the public and notice thereof shall be published once, not less than four (4) days or more than twenty (20) days before each review session, as provided by law. The published notice shall specify the topics to be discussed. The following topics may be discussed at every scheduled review session:

Recent and Developing Judicial and Federal Communications Rulings

Service Rate Structures

Free and Discounted Services

Application of New Technology or New Developments

Cable System Performance

Cable System Extension Policy

Services Provided

Programming Offered

Customer Complaints Review

Community Development and Education

Interconnection

New Services

Franchise Fees

Other topics, in addition to those listed, may be added by either party. Members of the general public may also request additional topics.

112.49 REGULATORY RESPONSIBILITY. The City, acting alone or acting jointly with other Franchising Authorities, may exercise or delegate the following administrative duties:

1. Administering the provisions of the cable system franchise(s),

2. Coordinating the operation of community access channel and facilities,

3. Providing technical, programming and operational support to public agency users, such as government departments, schools and health care institutions,

4. Establishing jointly with the Grantee, or as otherwise specified in the Franchise Agreement, procedures and standards for use of channels dedicated to public use and the sharing of public facilities, if provided for in any Franchise Agreement,

5. Planning the expansion and growth of public benefit cable services,

6. Analyzing the possibility of integrating cable systems with other local, regional or national telecommunications networks,

7. Formulating and recommending long-range telecommunications policy.

112.50 ANNUAL REPORT. No later than ninety (90) days after the close of the Grantee's fiscal year, and upon written request from the City, the Grantee shall submit a detailed written informative report to the City, including the following information pertaining only to the Indianola franchise:

1. A summary of the previous year's activities in development of the cable system, including, but not limited to, services begun or dropped and subscribers gained or lost.

2. A detailed revenue statement including a breakdown of all revenue sources upon which the City can verify franchise fee accuracy. The list of revenues shall include but not be limited to, a specific breakdown of the following items: basic tier service charges, expanded basic service charges, installation charges, reconnection fees, premium channel revenues, pay per view, and miscellaneous revenue paid by cable subscribers for cable services.

3. A summary of complaints, identifying the number and specific nature of complaints and their disposition.

4. A list of key management for the Indianola franchise along with their addresses and job titles.

5. The annual report of the parent company, if a public corporation.

6. A summary of types of communication signals and services provided without charge or provided under a barter arrangement along with their dollar equivalent.

7. A written confirmation that insurance coverages are maintained as required in Section 112.51.

The Grantee shall only be required to provide the information listed in this section upon written request by the City.

112.51 INSURANCE AND INDEMNIFICATION.

1. Indemnification. The Grantee shall defend, indemnify, protect, and hold harmless the City from and against any and all liability, losses, and damage to property or bodily injury or death to any person, including payments made under worker's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance, or operation of Grantee's cable system and caused by any act or failure to act on the part of the Grantee, its agents, officers, servants, or employees. The City shall give the Grantee written notice of its obligation to indemnify.

2. Insurance Coverage and Notifications. The Grantee shall maintain insurance in such amounts and kinds of coverages as may be specified by the City in the Franchise Agreement. Such coverages may be reasonably adjusted by the City with ninety (90) day notification, provided that the City demonstrates the need for increases in coverages. The Grantee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa. All policies shall name the City, its employees, servants, agents, and officers as additional insured parties. Each policy shall provide that it may not be canceled or the amount of coverage altered until thirty (30) days after receipt by the City Clerk of a registered mail notice of such intent to cancel or alter coverage. The Grantee shall provide a certificate of insurance designating the City as an additional insured. The Grantee shall maintain and provide to the City Clerk proof of Public Liability Insurance for not less than the following amounts:

$2,000,000 – any one occurrence, Bodily Injury or Property Damage

$2,000,000 – Products/Completed Operations Annual Aggregate Liability

$2,000,000 – General Aggregate

3. Insurance for Contractors and Subcontractors. Grantee shall provide coverage for any contractor or subcontractor involved in the construction, installation, maintenance or operation of its cable system by either obtaining the necessary endorsements to its insurance policies or requiring such contractor or subcontractor to obtain appropriate insurance coverage consistent with this section and appropriate to the extent of its involvement in the construction, installation, maintenance or operation of Grantee's cable system.

4. Foreclosure. A foreclosure or other judicial sale of all or part of the system shall be treated as a change in control of the Grantee and the provision of Section 112.52(8) of this chapter shall apply.

5. Receivership. The City shall have the right to cancel this franchise one hundred twenty (120) days after the appointment of a receiver or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or less:

A. Within one hundred twenty (120) days after being elected or appointed, such receiver or trustee shall have fully complied with all provisions of this chapter and remedied all defaults thereunder, and

B. Shall have executed an agreement, approved by the court having jurisdiction, whereby such receiver or trustee agrees to be bound by this chapter and the franchise granted to the Grantee.

6. Continuity of Service.

A. Right to Continuous Service. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the cable system, or the City gives notice of intent to terminate or fails to renew the franchise, the Grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service for 6 months. In the event of a change of Grantee, or in the event a new operator acquires the cable system, the original Grantee shall cooperate with the City, new Grantee or operator in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to the revenue for

any period during which it operates the cable system, and shall be entitled to reasonable costs for its services when it no longer operates the cable system.

B. Right of City to Operate Cable System. In the event Grantee fails to operate the system for seven (7) consecutive days without prior approval of the City or without just cause, the City may, working in conjunction with any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise, operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the City or a permanent operator is selected. If the City is required to fulfill this obligation for the Grantee, then during such period as the City fulfills such obligation, the City shall be entitled to collect all revenues from the cable system, and the Grantee shall reimburse the City for all reasonable costs or damages in excess of the revenues collected by the City that are the result of the Grantee's failure to perform.

7. Franchise Processing Costs.

A. New Franchises. For an initial franchise awarded, the costs to be borne by the Grantee shall include, but shall not be limited to, all costs of publication of notices prior to any public meeting, publication of relevant ordinances and franchise agreements, incurred by the City.

B. Franchise Renewal. For a franchise renewal, the Grantee shall reimburse the City cost of publication of notices, publication of relevant ordinances and franchise agreements.

C. Franchise Transfer. For a franchise transfer, the transferee shall reimburse the City the cost of publication of notices, publication of relevant ordinances and franchise agreements. The City reserves the right to withhold approval of such transfer until all costs have been reimbursed by the transferee.

D. Other Costs. The processing costs provided for in this section shall be in addition to any other inspection or permit fee or other fees due to the City under any other ordinance of general applicability.

8. Taxes. Subject to Federal and State law, 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 lawfully taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

112.52 ENFORCEMENT AND TERMINATION OF FRANCHISE.

1. Notice of Violation. In the event that the City believes that the Grantee has not complied with the terms of the franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

2. Grantee's Right to Cure or Respond. The Grantee shall have 30 days from receipt of the notice described in subsection 1: (a) to respond to the City, contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 1 pursuant to the procedures set forth in subsection 2, or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to subsection 2 above, the City shall schedule a public hearing to investigate the default. The City shall notify the Grantee in writing of the time and place of such meeting no less than five business days in advance and provide the Grantee with an opportunity to be heard.

4. Enforcement. In the event the City, after such public hearing, determines that the Grantee is in default of any provision of the franchise, the City, subject to applicable Federal law, may:

A. Seek specific performance of any provision which reasonably lends itself to such remedy as an alternative to damages;

B. Commence an action at law for monetary damages or seek other equitable relief, or

C. In the case of a substantial default of a material provision of the franchise, declare the Franchise Agreement to be revoked in accordance with the procedures outlined in this section.

The City shall give written notice to the Grantee of its intent to revoke the franchise on the basis of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have 30 days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response satisfactory from the Grantee, it may then seek termination of the franchise at a public meeting. The City shall cause to be served upon the Grantee, at least five (5) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination. At the designated meeting, the City shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the City "de novo" and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within 120 days of the issuance of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

5. Closing of Streets. The Grantee shall not be entitled to damages from the City sustained by the virtue of the closing, vacation, or relocation of any streets or alleys.

6. Reservation of Rights. The Grantee shall not be relieved of its obligation to comply with this chapter by reason of the City's failure to enforce prompt compliance.

7 Impossibility of Performance. The Grantee shall not be held in default or noncompliance with the provisions of the franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by the following circumstances if reasonably beyond its control:

A. Necessary utility rearrangements, pole change-outs or obtainment of easement rights,

B. Governmental or regulatory restrictions,

C. Lockouts,

D. War,

E. National emergencies,

F. Fire,

G. Acts of God.

8. Termination of Franchise.

A. Grounds for Revocation. The City reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

(1) If the Grantee should default in the performance of any of its material obligations under this chapter or the franchise and fails to cure the default within sixty (60) days after receipt of written notice of the default from the City, or such longer time as specified by the City.

(2) If a petition is filed by or against the Grantee under the Bankruptcy Act or any other insolvency or creditors' rights law, State or Federal, and the Grantee shall fail to have it dismissed.

(3) If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets.

(4) If the Grantee makes an assignment for the benefit of creditors.

(5) If the Grantee violates any order or ruling of any State or Federal regulatory body having jurisdiction over the Grantee, unless the Grantee or any party similarly affected is lawfully contesting the legality or applicability of such order or ruling and has received a stay from a Court of appropriate jurisdiction.

(6) If the Grantee evades any of the provisions of this chapter or the Franchise Agreement.

(7) If the Grantee practices any fraud or deceit upon the City or cable subscribers.

(8) If the Grantee materially misrepresents facts in the application for a franchise.

(9) If the Grantee ceases to provide services over the cable system for seven (7) consecutive days for any reason within the control of the Grantee.

B. Restoration of Property. In removing its plant, structures and equipment, the Grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. The City shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance indemnity provided in Section 112.51(2) and the performance bond in Section 112.52(10) shall continue in full force and effect during the period of removal.

C. Reimbursement of Costs Pursuant to Paragraphs A and B of this Subsection. In the event of a failure by the Grantee to complete any work as required above or any work required by law or ordinance within the time established and to the satisfaction of the City, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within thirty (30) days after receipt of an itemized list of such costs or the City may recover such costs as provided in Section 112.52(9).

9. Security Fund.

A. Within ten (10) days after execution of the Franchise Agreement, the Grantee shall deposit with the City Clerk, and maintain on deposit through the term of this franchise, the sum of $10,000.00 as security for the faithful performance by it of all the provisions of the franchise and compliance with all orders, permits, and directions of any agency of the City having jurisdiction over its acts or defaults under this chapter, and the payment by the Grantee of any claims, liens, and taxes due the City which arise by reason of the construction, operation, or maintenance of the system.

B. Within ten (10) days after notice that any amount has been withdrawn from the security fund deposited pursuant to paragraph A of this subsection, the Grantee shall pay to, or deposit with, the City Clerk a sum of

money sufficient to restore such security fund to the original amount of $10,000.00.

C. If the Grantee fails to pay to the City any compensation within the time fixed herein; or fails after ten (10) days' notice to pay to the City any taxes due and unpaid; or fails to repay to the City within such ten (10) days any damages, costs, or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with the franchise; or fails after three (3) days' notice of such failure by the City to comply with any provision of this contract which the City reasonably determines can be remedied by an expenditure of the security, the City Clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the City Clerk shall notify the company of the amount and date thereof.

D. The security fund deposited pursuant to this section shall become the property of the City in the event that this contract is canceled by reason of the default of the Grantee. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of this franchise, provided that there is then no outstanding default on the part of the Grantee. Interest earned by the investment of the security fund will accrue to the Grantee.

E. The rights reserved to the City with respect to the security fund are in addition to all other rights of the City, whether reserved by the franchise or authorized by law, and no action, proceeding, or exercise of a right with respect to such security fund shall affect any other right the City may have.

10. Faithful Performance Bond. Upon acceptance of a franchise, the Grantee shall submit and maintain throughout the term of the franchise, a faithful performance bond in the amount of one hundred thousand dollars ($100,000.00). The bond shall insure compliance with all applicable laws, regulations, ordinances and provisions of this permit, shall provide for recoverable loss or damages, compensation, indemnification, reasonable attorney fees, cost of removal or abandonment of Grantee's property, and shall cover penalties of one hundred dollars ($100.00) per day for failure to meet the construction requirements of any franchise agreement.

112.53 VIOLATIONS AND PENALTIES. If the Grantee fails to comply with the requirements of this chapter, and a cable franchise agreement, then the City may invoke and secure

compliance in accordance with Chapter 4 of this Code of Ordinances and as authorized by Section 364.22 of the Code of Iowa.

112.54 ACTIONS OF PARTIES. In any action by the City or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof such approval or consent shall not be unreasonably withheld.

112.55 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by this chapter to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.

112.56 WAIVER OR EXEMPTION. The City reserves the right to waive provisions of this chapter or exempt all Grantees from meeting provisions of this chapter, if the City determines such waiver or exemption is in the public interest.

[The next page is 651]

CHAPTER 113

REGULATION OF CABLE TELEVISION RATES

(Repealed by Ordinance No. 1340 – Feb. 06 Supp.)

[The next page is 655]

CHAPTER 114

RELOCATION OF UTILITY FACILITIES

114.01 RELOCATION OF EQUIPMENT.

1. In the event the Indianola Municipal Utilities moves or removes any wires used to provide any service from a pole or poles or other above ground structure and places such wires underground, and ceases to use a pole or poles or other above ground structure to provide utility services, Indianola Municipal Utilities shall give notice in writing to all other utilities using such pole, poles or other above ground structure and any such other utility using such pole, poles or other above ground structure shall remove their services from such pole or other above ground facility and place any such services underground within 60 days after receiving notice to relocate from the Indianola Municipal Utilities.

2. Where on the effective date of the ordinance codified in this chapter (October 10, 2001) Indianola Municipal Utilities has poles, or other facilities, which are no longer used for its services, but are maintained solely for the use of wires or other facilities of other utilities, such wires or facilities of other utilities shall be removed by such other utilities from such poles (unless continued use of such poles was allowed by a contract dated prior to October 10, 2001, which contracts shall not be renewed upon their expiration) within 180 days and all such poles or other facilities shall be removed from the right of way within 270 days from the effective date of the ordinance codified in this chapter (October 10, 2001).

3. The relocation of utility services provided for in this chapter shall be at the sole expense of the utility whose facilities are relocated.

(Ord. 1214 – Nov. 01 Supp.)

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CHAPTER 115

ELECTRIC FRANCHISE

115.01 Franchise Granted

115.02 Rights and Privileges

115.03 Poles and Wires

115.04 Pruning and Removal of Trees

115.05 Relocation of Facilities

115.06 Excavations

115.07 Disruption of Service

115.08 Utility Easements

115.09 Relocation Not Required

115.10 Relocation Reimbursement

115.11 Indemnification

115.12 Information

115.13 Quantity and Quality

115.14 Franchise Fee

115.15 Home Rule Powers

115.16 Emergency Response

115.17 Successors and Assigns

115.18 Termination

115.19 Severability

115.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company," and its successors and assigns, the non-exclusive right and franchise upon the terms herein contained to acquire, construct, erect, maintain and operate in the City of Indianola, Iowa, hereinafter called the "City," a system for the transmission and distribution of electric energy along, under, over and upon the streets, avenues, and alleys to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. The City Council reserves to itself the right to extend this franchise to other public places at the request of the Company. For the term of this franchise, the Company is granted the right of eminent domain. This franchise shall be effective for a 20 (twenty) year period from and after the effective date of the ordinance codified in this chapter.[†]

115.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Iowa Code Chapter 364 (2010) or as subsequently amended.

[†] **EDITOR'S NOTE:** Ordinance No. 1479, adopting an electric franchise for the City, was passed and adopted on September 6, 2011.

115.03 POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as to excavate and bury conduits or conductors for the distribution of electric energy in and through the City, provided the same shall be placed in accord with this franchise and the City Code of the City of Indianola, regarding the placement of structures, facilities, accessories or other objects in the right of way by utilities and other users of the right of way, including ordinances which assign corridors or other placements to users of the right of way and requirements which may be adopted regarding separation of structures, facilities, accessories or other objects.

115.04 PRUNING AND REMOVAL OF TREES. The pruning and removal of trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or right of way to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning shall be completed in accordance with nationally accepted safety and utility industry standards, ANSI Z133.1-2006, American National Standard for Arboriculture Operations-Safety Requirements, and ANSI A300 (part 1) - 2001 Priming, American National Standard for Tree, Shrub, and other Woody Plant Maintenance - Standard of Practices Pruning, or subsequent revisions to these standards, and City ordinances regarding the pruning of trees. The Company shall not remove or prune any tree on public grounds, other than streets, alleys or right of way, except in emergencies or when reasonably necessary to alleviate an existing electrical outage without first obtaining permission of the City's Director of Community Development or designee.

115.05 RELOCATION OF FACILITIES. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's Tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley of such street or alley. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall consider said alternative route, or construction method. The City shall, in the extension or modification of streets and roads, make provision for the placement of Company service lines and facilities on City-owned right of way without charge to Company. In planning for the extension or modification of streets and roads, the City shall, to the extent practicable design such changes to limit the need for the relocation of Company facilities. The City shall be responsible for surveying and staking

the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

115.06 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and shall not unnecessarily obstruct the use of streets, avenues or alleys. The Company shall provide the Director of Community Development with 24 hours' notice prior to the actual commencement of the work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit, provided, however, that the Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company's paving cut or excavation, but shall not be required to improve or modify the public right of way. The Company shall complete all repairs in a timely and prompt manner.

115.07 DISRUPTION OF SERVICE. Prior to commencing significant construction or maintenance projects in the public right of way, with the potential to cause a disruption of electric service, the Company shall use its best efforts to notify the contiguous potentially affected customers. "Best efforts" as the term is used in this section shall include but are not limited to at least one of the following: door hangers, telephone contact, electronic methods or direct mail. Notification shall not be required in the event of emergency repairs or electric outage restoration efforts.

115.08 UTILITY EASEMENTS. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating

any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities.

115.09 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous five years.

115.10 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities as may be required by Sections 115.03, 115.05, 115.06, 115.07 and 115.08, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

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

115.12 INFORMATION. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under state or federal law or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right of way if the Company has clearly designated that such information is a trade secret or has been clearly designated by the Company as otherwise protected from public disclosure by state or federal law. The City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information have been designated as exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, and Chapter 22 of the Code of Iowa, as such statutes and regulations

may be amended from time to time. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document which the Company has designated as a trade secret or as otherwise protected from disclosure, the Company shall assume, upon request of the City, the defense of said action and reimburse the City any and all cost, including attorneys' fees and penalties to the extent allowed by law.

115.13 QUANTITY AND QUALITY. The Company shall construct, operate and maintain its facilities and furnish electricity in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

115.14 FRANCHISE FEE. There is hereby imposed upon the Company a franchise fee upon the gross revenue generated from sales, pursuant to the tariff, within the corporate limits of the City on the following schedule:

January 1, 2012 to December 31, 2012	2%
January 1, 2013 to December 31, 2013	3%
January 1, 2014 to December 31, 2014	4%
From and after January 1, 2015	5%

The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows.

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

(Ord. 1488 – Feb. 12 Supp.)

115.15 HOME RULE POWERS. The City reserves to itself all home rule powers and authority.

115.16 EMERGENCY RESPONSE. If requested by the City, the Company shall participate in a disaster or emergency response communications task force to address such topics as a

dedicated communications link between the City and the Company during emergencies, an interoperable radio communications system between the Company and the City, a reverse telephone messaging system and participation by the Company in City and Warren County joint drills and emergency training exercises. It is the intent of the parties that such participation may be established by a separate agreement which refers to this franchise.

115.17 SUCCESSORS AND ASSIGNS. This franchise shall apply to and bind the City and the Company and their successors and assigns.

115.18 TERMINATION. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

115.19 SEVERABILITY. If any of the provisions of this franchise ordinance are for any reason declared to be illegal or void, the lawful provisions of this franchise ordinance, which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the franchise ordinance contained no illegal or void provisions.

(Ch. 115 – Ord. 1479 – Nov. 11 Supp.)

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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 Minors Prohibited on Certain Premises

120.07 Premises Ineligible for Beer and Liquor Permits Allowing Consumption on Premises

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 two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (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 bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

(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])

120.06 MINORS PROHIBITED ON CERTAIN PREMISES.

1. It is unlawful for the holder of a license or permit issued pursuant to the Iowa Alcoholic Beverage Control Act for premises where more than fifty percent (50%) of the business conducted is the sale or dispensing of alcoholic beverages and for every person employed with respect to such premises to knowingly permit or fail to take reasonable measures to prevent the entry onto such premises of any and all persons who have not yet attained the age for lawful purchase and possession of alcoholic beverages (who shall be referred to as underage persons for purposes of this section). This section shall only apply to premises where alcoholic beverages are sold and consumed. Any holder of a license or permit issued pursuant to the Iowa Alcoholic Beverage Control Act for premises where less than fifty percent (50%) of the business conducted is the sale or dispensing of alcoholic beverages shall have the burden of proving such qualification for exemption of this section to the office of the Clerk under guidelines established by the City. In order to qualify for an exemption from this section, a license or permit holder shall make application to the office of the Clerk upon annual renewal of such license or permit by the City.

2. However, the provisions of subsection 1 do not apply when:

A. The underage person is an employee of the license holder, or performing a contracted service with respect to the premises.

B. The underage person is accompanied by a parent, guardian or spouse who is of legal age for the purchase of alcoholic beverages.

C. The underage person is on the premises during a time that the licensee has, in accordance with a written notice and plan given in advance to the Police Chief, suspended dispensing alcoholic beverages on the licensed premises or on a clearly delineated part of the licensed premises operated under a differentiating trade name. It shall be the strict duty of a licensee permitting such underage persons onto the licensed premises pursuant to such a plan, and of all persons employed with respect to the premises, to prevent underage persons from consuming or possessing alcoholic beverages on the premises. Police officers shall be admitted to the premises at any time to monitor compliance with all applicable laws. Failure in that duty, whether knowingly or otherwise, shall be punishable as a violation of this section.

3. It is unlawful for any person who has not yet attained the age for lawful purchase and possession of alcoholic beverages to go onto such premises as described in subsection 1 except as provided for by subsection 2.

4. Any holder of a license or permit issued pursuant to the Iowa Alcoholic Beverage Control Act which is subject to the prohibitions of this section shall post a notice on any public entrance which is not smaller than eight and one-half (8½) inches by eleven (11) inches in bold letters not less than three (3) inches in height that states such premises is subject to the prohibition of minors on the premises.

120.07 PREMISES INELIGIBLE FOR BEER AND LIQUOR PERMITS ALLOWING CONSUMPTION ON THE PREMISES. The location of a building wherein there is sale of beer or liquor for consumption on the premises shall not be nearer than one hundred fifty (150) feet to any building used for school or religious worship purposes. This restriction does not apply, however, if the building wherein there is sale of beer or liquor for consumption on the premises is (A) a building used for religious worship purposes; (B) located on Buxton Street or Howard Street between Salem Avenue and Ashland Avenue or on Salem Avenue or Ashland Avenue between Buxton Street and Howard Street; or (C) if more than fifty percent (50%) of the gross sales of the business is from the sale of food other than beer or liquor.

1. For purposes of determining whether or not the one hundred fifty-foot limitation is exceeded, the closest distance between the two (2) points defined below, as measured along the center of the connecting street or alley, shall be used:

A. The center of the street or alley in front of the front door of the center of the street or alley adjacent to any portion of a parking lot intended to serve the building wherein there is sale of beer or liquor for consumption on the premises;

B. The front door of the school building or building used for religious worship purposes.

2. For purposes of determining whether or not fifty percent (50%) or more of the sales of any business is from the sale of food other than beer or liquor, the affidavit of the applicant requesting the initial permit, stating that more than fifty percent (50%) of the sales of the business will be from the sale of food other than beer or liquor, shall be adequate for granting the initial permit. Any time, more than three (3) months after the initial permit is granted or specifically at the time of renewal, the Council or Mayor may request, and the permittee shall furnish, documentary evidence satisfactory to the Council that the fifty percent (50%) food sale requirement as set out above has been met.

A renewal of the license shall not be denied under this section in the event a building is constructed for religious worship or school purposes within the one hundred fifty (150) foot

limitation as set out above after the license has been issued, if the construction has started and taken place while the license was in effect.

(Ord. 1231 – Nov. 02 Supp.)

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CHAPTER 121

CIGARETTE 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 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.

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; snuff flour; 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. 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 be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

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

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance 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)

121.04 FEES. The fee for a retail cigarette permit shall be as follows:

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

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 of the Code of Iowa.

(Code of Iowa, 453A.13)

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's permit shall be suspended for a period of thirty (30) days.

3. For a third violation within a period of three (3) years, the retailer's permit shall be suspended for a period of sixty (60) days.

4. For a fourth violation within a period of three (3) 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)

CHAPTER 122

TRANSIENT MERCHANT LICENSES

122.01 Definition

122.02 License Required

122.03 Application for License

122.04 Bond Required; Applicability; Forfeiture

122.05 Issuance of License

122.06 License Fee

122.07 Misrepresentation

122.08 Suspension and Revocation

122.09 Penalty

122.10 Enforcement

122.01 DEFINITION. The term "transient merchant" as used in this chapter means and includes every merchant, whether an individual person, a firm, corporation, partnership or association, and whether owner, agent, bailee, consignee or employee, who shall bring or cause to be brought within the State of Iowa any goods, wares or merchandise of any kind, nature or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares or merchandise within the City. The term "transient merchant" also means and includes every merchant, whether an individual person, a firm, corporation, partnership or an association, who shall by itself, or by agent, consignee or employee temporarily or intermittently engage in or conduct at one or more locations a business within the City for the sale at retail of any goods, wares or merchandise of any nature or description. A merchant engaging in business shall be presumed to be temporarily or intermittently in business unless it is the intention of such merchant to remain continuously in business at each location where the merchant is engaged in business within the City as a merchant for a period of more than sixty (60) days. The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, or to transient vendors of drugs or to persons selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, or to persons selling their own work or production either by themselves or employees.

122.02 LICENSE REQUIRED. It is unlawful for any transient merchant, as defined in this chapter, to sell, dispose of, or offer for sale any goods, wares or merchandise of any kind, nature or description, at any time or place within the City, unless such transient merchant, as in this chapter defined, has a valid license as provided herein and complies with the regulations set forth in this chapter.

122.03 APPLICATION FOR LICENSE. Any transient merchant, as defined herein, desiring a transient merchant's license shall, at least ten (10) days prior to the first day any sale is

made, file with the Clerk an application in writing duly verified by the person, firm, corporation, partnership or association proposing to sell or offer to sell at retail any goods, wares or merchandise, or to engage in or conduct a temporary or intermittent business for the sale at retail of any goods, wares or merchandise, which application shall state the following facts:

1. The name, residence and post office address of the person, firm, corporation, a partnership or association making the application, and if a corporation, the names and addresses of the officers thereof, and if a firm, partnership or association and not a corporation, the names and addresses of all members thereof.

2. If the application is made by an agent, bailee, consignee or employee, the application shall so state and set out the name and address of such agent, bailee, consignee or employee and shall also set out the name and address of the owner of the goods, wares and merchandise to be sold or offered for sale.

3. The application shall state whether or not the applicant has an Iowa retailers sales tax permit and if the applicant has such permit, shall state the number of such permit.

4. If the applicant is a corporation, the application shall state whether or not the applicant is an Iowa corporation or a foreign corporation, and if a foreign corporation, shall state whether or not such corporation is authorized to do business in Iowa.

5. The value of the goods to be sold or offered for sale or the average inventory to be carried by any such transient merchant engaging in or conducting an intermittent or temporary business as the case may be.

6. The date or dates upon which said goods, wares or merchandise shall be sold or offered for sale, or the date or dates upon which it is the intention of the applicant to engage in or conduct a temporary or intermittent business.

7. The location and address where such goods, wares or merchandise shall be sold or offered for sale, or such business engaged in or conducted.

122.04 BOND REQUIRED; APPLICABILITY; FORFEITURE. At the time of filing the application and as a part thereof, the applicant shall file with the Clerk a bond, with sureties to be approved by the Clerk, in a penal sum two (2) times the value of the goods, wares or

merchandise to be sold or offered for sale or the average inventory to be carried by such transient merchant engaged in or conducting an intermittent or temporary business, as the case may be, as shown by the application, running to the State of Iowa and the City of Indianola, for the use and benefit of any purchaser of any merchandise from such transient merchant who might have a cause of action of any nature arising from or out of such sale against the applicant or the owner of such merchandise if other than the applicant. The bond shall further be conditioned on the payment by the applicant of all taxes that may be payable by, or due from, the applicant to the State of Iowa or any subdivision thereof, and the bond shall be further conditioned for the payment of any fines that may be assessed by any court against the applicant for violation of the provision of this chapter, and further conditioned for the payment and satisfaction of any and all causes of action against the applicant commenced within one (1) year from the date of sale thereof, and arising from such sale, provided, however, that the aggregate liability of the surety for all such taxes, fines and causes of action shall in no event exceed the principal sum of such bond. In such bond the applicant and surety shall appoint the Clerk the agent of the applicant and surety for the service of process. In the event of such service, the agent upon whom such service is made shall within five (5) days after the date of service, mail by ordinary mail a true copy of the process served upon the agent to each party for whom the agent is served, addressed to the last known address of such party. Failure to so mail such copy shall not, however, affect the jurisdiction of the court. Such bond shall contain the consent of the applicant and surety that the district court of the county in which the plaintiff may reside or Warren County, Iowa, shall have jurisdiction of all actions against the applicant or surety, or both, arising out of the sale. The State of Iowa, the City of Indianola, or any subdivision thereof, or any person having a cause of action against the applicant or surety arising out of said sale may join the applicant and surety on such bond in the same action, or may in such action sue either the applicant or the surety alone. The requirements of this section also apply to transient merchants who are licensed in accordance with an ordinance of another city in the State of Iowa. Notwithstanding the above provisions, the bond provided for in this section shall be forfeited to the State of Iowa or the City of Indianola upon the applicant's failure to pay the total of all taxes payable by or due from the applicant to the State, which taxes are administered by the Department of Revenue and Finance. The department shall adopt administrative rules for the collection of the forfeiture. Notice shall be provided to the surety and to the applicant. Notice to the applicant shall be mailed to the applicant's last known address. The applicant or the surety shall have the opportunity to apply to the Director of Revenue and Finance for a hearing within thirty (30) days after the giving of such notice. Upon the failure to request a hearing in a timely manner, the bond shall be forfeited. If, after the hearing upon timely request, the director finds that the applicant has failed to pay the total of all taxes payable and the bond is forfeited, the director shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond. The surety shall not have standing to contest the amount of any taxes payable. For purposes of this section "taxes payable" means all taxes, penalties, interest, and fees that

the department has previously determined to be due by assessment or in an appeal of an assessment.

122.05 ISSUANCE OF LICENSE. Upon receiving an application for a transient merchant's license, the Clerk shall investigate, or cause to be investigated, the reputation and character of the applicant. If upon making such investigation the Clerk is satisfied that the statements and representations contained in the application are true, and that the applicant is of good reputation and character, and the holder of an Iowa retailer's sales tax permit, and if a foreign corporation has authority to do business in the State of Iowa, the Clerk shall issue to the applicant a license as a transient merchant upon payment of the fee as herein prescribed for the period of time requested in the application and for use at the location and place where it is stated in the application the sale will be held or the business conducted, both of which shall be set out in the license. Such license shall be valid only for the period of time and at the location and place described therein.

122.06 LICENSE FEE. Prior to issuing the transient merchant's license, the Clerk shall collect for the City a license fee in the sum of twenty dollars ($20.00) for each day the applicant, as shown by the application, shall propose to sell or offer for sale any goods, wares or merchandise, or for each day the applicant, as shown by the application, proposes to engage in and conduct a business as a transient merchant as the case may be.

122.07 MISREPRESENTATION. It is unlawful for any transient merchant making sales or engaging in or conducting a business under a transient merchant's license to make any false or misleading statements or representation regarding any article sold or offered for sale by such transient merchant as to condition, quality, original cost, or cost to such transient merchant of any article sold or offered for sale or to sell or offer for sale goods, wares or merchandise of a value in excess of the value thereof as shown by the application, or to sell or offer for sale at retail any goods, wares or merchandise, or to engage in or conduct an intermittent or temporary business on any days or at any place other than those shown by such license.

122.08 SUSPENSION AND REVOCATION. After an alleged violation of the provisions of this chapter or of any other local, State or Federal law, and before a proper hearing before the Clerk, the transient merchant's license shall be under suspension and the transient merchant shall not conduct any further business under the license until disposition of the matter after the hearing. The Clerk may revoke any license issued under the provision of this chapter after proper hearing before the Clerk, by the sending of due notice of said hearing by registered letter to the transient merchant at the merchant's last known address, return

receipt requested, not less than twenty (20) days before the date of the hearing, for any of the following causes:

1. For any violations of the provisions of this chapter.

2. For failure to pay the sales tax as provided by law or misrepresentation of the source, condition, quality, weight or measure of the product sold by the transient merchant.

3. If any judgment recovered against any transient merchant with reference to the operation of that business remains unpaid for a period of six (6) months, provided such judgment be not stayed under a *supersedeas* bond upon appeal from such judgment.

The Clerk shall give immediate notice of the revocation of any license issued under the provisions of this chapter to the surety or sureties furnishing the bond provided for herein. In the event of revocation, no other transient merchant license shall be issued to such applicant for a period of two (2) years thereafter.

122.09 PENALTY. Any merchant, whether an individual person, a firm, corporation, partnership or association, violating any of the provisions of this chapter shall be guilty of a simple misdemeanor, and each sale made in violation of the provisions hereof shall be and constitute a separate offense.

122.10 ENFORCEMENT. The City Attorney may seek an injunction from a court of competent jurisdiction in order to prohibit sales by a transient merchant who is in violation 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 Protection and Removal of Utilities Facilities

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. Any building which is of such a size that it can be loaded upon any duly licensed truck, and which can then be moved without coming into contact with any telephone lines, electric light lines or any other public service corporation property, may be moved without the necessity of securing the permit.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability and property damage insurance in effect for the duration of the permit covering the applicant and all agents and employees, with limits satisfactory to the Council.

123.06 PERMIT FEE. A permit fee of ten dollars ($10.00) 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 PROTECTION AND REMOVAL OF UTILITIES FACILITIES.

1. A person moving any building for which a permit is required by this chapter shall also give written notice of at least twenty-four (24) hours before the commencement of the moving of the building to the electric light and power department, the telephone company and any other public service corporation the property of which is upon the streets and alleys of the City and may be in danger or be interfered with by the moving of the building, which notice shall specify the time and place of moving the same and the streets and alleys over which the building is to be moved.

2. After the service of the notice required by subsection 1, it shall be the duty of any public service corporation whose property is located upon or over the streets and alleys of the City and whose property is an obstruction to the movement of said building over the streets and alleys, upon payment by the owner of the building, or the party moving it, of the reasonable expense of removing the obstructions and replacing them after the building has been moved, to temporarily remove the obstruction so as to enable the building to pass the obstruction.

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CHAPTER 124

JUNK DEALER AND JUNK YARD LICENSES

124.01 Definitions

124.02 License Required

124.03 Application

124.04 Action on Application

124.05 Fee; License Period

124.06 When Fencing Required

124.07 Revocation

124.08 Continuing Violation a Nuisance

124.01 DEFINITIONS. As used in this chapter, the following terms have the meanings ascribed to them:

1. "Junk" means any material or article having lost its value for the original purpose for which it was created or manufactured and which has a value only for the salvage of its materials or parts.

2. "Junked automobile" means any automobile not capable of being driven from the place of its location under its own power without the addition of parts or repairs thereon, and in addition, any automobile not equipped with four (4) inflated tires is considered a junked automobile.

3. "Wrecked automobile" means any automobile that has been wrecked or is unsafe for road use, and is usually transported by a wrecker service. Impounded automobiles are included within this definition.

124.02 LICENSE REQUIRED. It is unlawful for any person to operate or maintain a junkyard or engage in the business of dealing in junk within the City without having obtained a license therefor from the City.

124.03 APPLICATION. An application for a license required by this chapter shall be in writing, setting out the true name of the owners of the business, the exact description of the premises upon which the applicant intends to conduct the business, the nature and kinds of material and junk which will be bought, sold or stored, and application shall be accompanied by a deposit of the license fee. A statement that the applicant will abide by and conduct the business according to the provisions of this chapter and other City ordinances shall also be attached.

124.04 ACTION ON APPLICATION. The application for a license shall be promptly considered by the Council, which shall determine within twenty (20) days after filing thereof with the Clerk whether and if the application shall be approved or not. If approved, the license shall forthwith be issued by the Clerk.

124.05 FEE; LICENSE PERIOD. The annual fee for a license required by this chapter shall be one hundred dollars ($100.00), and all licenses shall expire on the last day of December, following date of issuance, unless revoked in the manner prescribed in this chapter. All fees collected under this chapter shall be allocated into the General Fund of the City. A license issued for a part of a year shall be computed on a quarterly basis.

124.06 WHEN FENCING REQUIRED.

1. Junkyards or wrecked automobile storage yards with ten (10) or more automobiles within one hundred fifty (150) feet of any street or highway and all junkyards or wrecked automobile storage yards with twenty (20) or more automobiles shall be enclosed and hidden from public view by a wooden or metal fence eight (8) feet in height and constructed, built and maintained so as to present an appearance not offensive to the traveling public. All other junkyards and wrecked automobile storage yards shall be kept and maintained with due regard to the health and safety of the public and with due regard to aesthetics.

2. It is unlawful for any person engaged in the junk business in the City to engage in the dismantling, wrecking or breaking up of any automobile, piece of machinery or articles without complying with subsection 1.

3. It is unlawful for any person engaged in the business of maintaining or operating a junkyard in the City to allow, establish or maintain an accumulation of old iron, tin, fencing, wire, scrap metal, rubber tires, rags, papers or other junk without complying with subsection 1.

It is unlawful for any person engaged in maintaining a junkyard in the City to place, park, store, maintain or leave any wrecked, junked or dismantled or abandoned automobiles on any street of the City or upon any parking along said streets or upon any private or railroad property or pieces of land outside the enclosure required by this section.

124.07 REVOCATION. A license issued pursuant to this chapter to a person who has been convicted of three (3) or more violations within one (1) year from the date of issuance of the license, of any of the provisions of this chapter, shall be subject to revocation. A license

issued pursuant to this chapter may be revoked only by a two-thirds (2/3) vote of the Council at any regular or special meeting thereof, provided the holder of the license has been notified by written notice of the time and place of the hearing concerning said revocation by the Council, at least five (5) days prior to the date of the hearing.

124.08 CONTINUING VIOLATION A NUISANCE. The continued maintenance of any junk or junk materials or cars which constitute a violation of this chapter shall constitute a nuisance and may be abated as provided by Chapter 50 of this Code of Ordinances.

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CHAPTER 125

ROLLER SKATING RINK LICENSES

125.01 License Required

125.02 License Fee and Term

125.03 Transfer of License

125.04 Revocation of License

125.05 Premises to be Orderly

125.06 Premises Subject to Immediate Closing

125.01 LICENSE REQUIRED. No person shall engage in the operation of a roller skating rink within the City without first procuring a license therefor from the Council. A majority vote of the Council is required for the issuance of the license required by this chapter.

125.02 LICENSE FEE AND TERM. The annual fee for a license required by this chapter is twenty-five dollars ($25.00). No refund shall be made for the unexpended term of a license. A license issued pursuant to this chapter shall be valid for a period of twelve (12) months.

125.03 TRANSFER OF LICENSE. No license issued pursuant to this chapter is transferable except by the consent of a majority of the Council and such consent shall not be effective until endorsed on the back of the license issued, and signed by the Mayor and the Clerk.

125.04 REVOCATION OF LICENSE. Whenever a two-thirds (2/3) majority of the Council finds that any licensee under this chapter has violated any provisions of this chapter, the license of the person may be revoked by a two-thirds (2/3) vote of the Council. The finding may be made at some special or regular meeting of the Council, and can be made only when the licensee shall have had at least five (5) days' notice in writing of the meeting and proposed action by the Council.

125.05 PREMISES TO BE ORDERLY. Each person engaged in the operation of a skating rink licensed pursuant to the provisions of this chapter shall operate and maintain it and the premises where it is located in an orderly and law-abiding manner.

125.06 PREMISES SUBJECT TO IMMEDIATE CLOSING. In addition to any penalty imposed, the premises of any person not complying with the provisions of this chapter shall be subject to immediate closing.

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CHAPTER 126

BOWLING ALLEY LICENSES

126.01 License Required

126.02 License Fee

126.03 Transfer of License

126.04 License Period

126.05 Revocation of License

126.06 Premises to be Orderly

126.07 Premises Subject to Immediate Closing

126.01 LICENSE REQUIRED. No person shall engage in the operation of a bowling alley within the City without first procuring a license therefor from the Council. A majority vote of the council shall be required for the issuance of the license required by this chapter.

126.02 LICENSE FEE. The fee for a license required by this chapter shall be a minimum fee of twenty-five dollars ($25.00) which shall include the first alley, and an additional fee of five dollars ($5.00) for each additional alley; payment of the fee shall be made to the Clerk prior to the issuance of the license.

126.03 TRANSFER OF LICENSE. No license issued pursuant to this chapter is transferable except by the consent of a majority of the Council; such consent shall not be effective until endorsed on the back of the license issued and signed by the Mayor and Clerk.

126.04 LICENSE PERIOD. A license issued pursuant to this chapter shall be valid for a period of twelve (12) months.

126.05 REVOCATION OF LICENSE. Whenever a two-thirds (2/3) majority of the Council finds that any licensee under this chapter has violated any provision of this chapter, the license of the person may be revoked by a two-thirds (2/3) vote of the Council. The finding may be made at some special or regular meeting of the Council, and can be made only when the licensee shall have had at least five (5) days' notice in writing of the meeting and the proposed action by the Council.

126.06 PREMISES TO BE ORDERLY. Each person engaged in the operation of a bowling alley licensed pursuant to the provisions of this chapter shall operate and maintain it and the premises where it is located in an orderly and law-abiding manner.

126.07 PREMISES SUBJECT TO IMMEDIATE CLOSING. In addition to any penalty imposed, the premises of any person not complying with the provisions of this chapter shall be subject to immediate closing.

CHAPTER 127

TAXICAB LICENSES

127.01 Definition

127.02 License Required

127.03 Application

127.04 Fee; License Period; Proration and Refund of Fee

127.05 Insurance

127.06 Issuance; Display

127.07 Transferability

127.08 Revocation; Grounds

127.09 Applicability to Ambulances

127.10 Council to Approval Rates and Fares; Posting

127.11 Qualifications of Drivers

127.01 DEFINITION. For the purpose of this chapter the term "taxicab" means any motor vehicle carrying passengers for hire, except those designated to carry more than seven (7) persons.

127.02 LICENSE REQUIRED. No person shall, within the City, accept passengers for hire in any taxicab without first having obtained from the Council a license therefor and without first having complied with all other provisions of this chapter.

127.03 APPLICATION. Any person desiring a license required by this chapter shall make written application therefor to the Council upon blanks to be furnished by the Clerk. The application shall contain the full name and address of the owner and the make, model, year of manufacture, state license number for the current year and the engine and factory number of the vehicle.

127.04 FEE; LICENSE PERIOD; PRORATION AND REFUND OF FEE.

1. The annual fee for a license required by this chapter, to be paid in advance, is twenty-five dollars ($25.00) for each taxicab.

2. All licenses issued pursuant to this chapter shall extend from the first day of July until the last day of June next following, unless sooner revoked.

3. A license required by this chapter may be purchased for a portion of a year, to terminate the last day of June next following, in which event the license shall be charged for on a quarterly basis.

4. Refunds shall be determined upon a quarterly basis when any license issued pursuant to this chapter is surrendered.

127.05 INSURANCE. Upon the approval of an application for license required by this chapter, but before a license is issued, the applicant shall purchase liability insurance upon each vehicle to be licensed from a reliable insurance company approved by the Council, in an amount satisfactory to the Council; however, the amount of insurance so required shall be uniform as to all licensees on the same class of vehicle. The applicant shall file competent evidence with the Clerk showing that the policy so purchased covers the period for which the license is to be granted.

127.06 ISSUANCE; DISPLAY. Upon the issuance of a license pursuant to this chapter, the Clerk shall deliver to the licensee a card certifying that the vehicle is so licensed, which card shall be kept posted in the vehicle in a place plainly visible to any passenger.

127.07 TRANSFERABILITY. A license issued pursuant to this chapter is not transferable from one vehicle to another.

127.08 REVOCATION; GROUNDS. In addition to any other penalty which may be imposed, the Council may revoke any license issued pursuant to this chapter for a violation of any provision of this chapter.

127.09 APPLICABILITY TO AMBULANCES. Ambulances operated by regularly established funeral houses, or otherwise regularly licensed or authorized, are not subject to this chapter.

127.10 COUNCIL TO APPROVAL RATES AND FARES; POSTING. The rates, fares and all charges for the transportation of passengers and baggage shall be filed with the Clerk, and shall be approved by the Council before a licensee under this chapter engages in the acceptance of passengers or baggage for hire under such rates. The rates and fares, upon approval, shall be kept posted in each licensed vehicle to which they apply, in a place plainly visible to any passenger.

127.11 QUALIFICATIONS OF DRIVERS. Every driver of a licensed taxi shall be at least eighteen (18) years of age and shall possess a valid Iowa driver's license.

CHAPTER 128

ELECTRICIAN LICENSES

128.01 License Required; Exception

128.02 Applicant Qualifications to Be Established

128.03 Fees

128.04 Bond

128.01 LICENSE REQUIRED; EXCEPTION. Before any person, firm, or contractor shall proceed to make any electrical repairs, extensions, or other electrical installations within the City, such person shall obtain an electrician's license from the Building Official. An owner of a single-family dwelling, however, is not required to obtain a license to make electrical repairs, extensions, or other electrical installations to such person's own residence or to any of the usual accessory buildings located on the same lot if the single-family residence is at that time occupied solely by the owner and the owner's family and if the said owner performs all the labor required and personally purchases all materials required for the project for which the permit is requested. All the work done by the owner in accordance with this exception must meet all the requirements of the Electrical Code and shall be inspected in the same manner as work performed by a licensed electrician.

128.02 APPLICANT QUALIFICATIONS TO BE ESTABLISHED. Before such a license is issued, the applicant shall establish to the satisfaction of the Building Official that the applicant is a qualified electrician or electrical contractor, as the case may be.

128.03 FEES. An electrical contractor shall pay a license fee of fifty dollars ($50.00) per year. All other electricians shall pay a license fee of twenty dollars ($20.00) per year.

(Ord. 1201 – Aug. 01 Supp.)

128.04 BOND. An electrical contractor shall post a five thousand dollar ($5,000.00) bond to insure compliance with the ordinances of the City.

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CHAPTER 129

MECHANICAL CONTRACTOR LICENSES

129.01 License Required

129.02 Classifications

129.03 Contractor's Bond

129.04 License Fees

129.01 LICENSE REQUIRED. No person shall engage in or make any representation to the public as engaging in the activity or business of installing, altering, or repairing any mechanical equipment or systems within the City unless such person first obtains from the City a contractor's license of the class required for the particular work in which such person is to engage, with the following exceptions:

1. Any person installing, altering, or repairing incinerators or cooling towers shall be permitted to perform such work without holding any of the licenses required.

2. Any public utility or gas supply company that is regularly engaged in the business of supplying gas service to the public shall be permitted to perform the following services without holding any of the licenses required.

   A. Make minor repairs to, or adjustments on, gas appliances or equipment.

   B. Install gas piping and fittings incidental to the installation or relocation of gas meters and domestic gas appliances such as kitchen appliances, clothes dryers, and incinerators.

3. An owner of a single-family dwelling making mechanical repairs, extensions, or other mechanical installations to the owner's own residence or to any of the usual accessory buildings located on the same lot if the single-family residence is at that time occupied solely by the owner and the owner's family if the owner performs all the labor required and personally purchases all materials required for the project for which a permit is requested. All the work done by the owner in accordance with this exception must meet all the requirements of the Mechanical Code and shall be inspected in the same manner as work performed by a licensed mechanical contractor.

129.02 CLASSIFICATIONS. Contractor's licenses shall be classified in accordance with the type of equipment to be installed, altered, or repaired by the licensee. No license holder shall engage in work which is not included under the classification for which the person holds a license. Classes of licenses and the corresponding scope of work authorized thereby shall be as listed:

1. Class A, Mechanical Contractor (unrestricted). Holders of this license may obtain permits for any of the work or equipment regulated by the Mechanical Code. This license shall be available only to:

   A. Any person who has qualified for a Class B, Class C, and Class D license; or

   B. Any firm or corporation in which the active managers wish to combine their respective Class B, Class C, and Class D licenses for the purpose of obtaining a Class A license for the firm or corporation, in which case each manager must maintain an individual license simultaneously with the firm or corporation's Class A license. The Class A license shall be issued in the name of the firm or corporation and each of the holders of the Class B, Class C, and Class D licenses. All permit applications shall be made by one of the managers so named.

2. Class B, Comfort Heating Contractor. Holders of this license may obtain permits for any of the work or equipment regulated under Chapters 5 through 14, inclusive, Chapters 19, 20 and 22 of the Uniform Mechanical Code. For purposes of this section, the term "comfort heating" shall be deemed to include "comfort cooling."

3. Class C, Refrigeration Contractor. Holders of this license may obtain permits for any of the work or equipment regulated under Chapters 12 through 15, inclusive, and Chapter 22, of the Uniform Mechanical Code.

4. Class D, Boiler Contractor. Holders of this license may obtain permits for any of the work or equipment regulated under Chapters 19, 21, and 22 of the Uniform Mechanical Code.

Whenever a contractor's license is issued, it shall be in the name of the person who has qualified for it. Except as otherwise provided in this chapter, no license shall be issued in the name of a firm or corporation, and no contractor shall obtain permits for more than one firm or corporation.

129.03 CONTRACTOR'S BOND. Prior to the issuance or renewal of any mechanical contractor's license, the applicant shall file with the Department of Building and Zoning a bond running to the City in the sum of ten thousand dollars ($10,000.00) for a Class A, mechanical contractor's license, and five thousand dollars ($5,000.00) for each of the other classes of licenses, to be approved by the Department of Building and Zoning to save the City harmless on account of any and all failures on the part of such applicant to comply in all particulars with the provisions of the Mechanical Code and all other applicable laws and ordinances, rules and regulations relating to the work for which a permit has been issued, and to insure the rectification of defective work to the satisfaction of the senior mechanical inspector.

129.04 LICENSE FEES. The annual fees for licenses are as follows:

Type of License	**Annual Fee**	
	Shop	**Journeyman**
Mechanical Contractor Class A	$50.00	$20.00
Comfort Heating Contractor Class B	$40.00	$20.00
Refrigeration Contractor Class C	$40.00	$20.00
Boiler Contractor Class D	$40.00	$20.00

All licenses shall expire on December 30 of each year.

(Ord. 1200 – Aug. 01 Supp.)

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CHAPTER 130

PLUMBER LICENSES

130.01 License Required

130.02 Apprentices and Helpers Exemption

130.03 Application

130.04 Fees

130.05 Bond and Insurance

130.06 Revocation

130.07 Notice to Building Official of Name and Location

130.08 Transferability

130.09 Permitting Use of Licensee's Name by Another

130.01 LICENSE REQUIRED. No person shall engage in the practice of installing, repairing or altering plumbing work in the City unless licensed as a plumber, in accordance with this chapter.

130.02 APPRENTICES AND HELPERS EXEMPTION. Apprentices and helpers employed to assist a plumber licensed pursuant to this chapter in the practice of installing, repairing or altering plumbing work need not be licensed; however, such apprentices and helpers shall perform their work under the direction and supervision of a licensed plumber.

130.03 APPLICATION. Any person who desires to be licensed as a plumber pursuant to this chapter shall make a written, signed application to the Building Official. The license fee required by this chapter shall accompany the application. The application shall contain full information as to the age, experience and qualifications of the applicant, and shall affirmatively show whether or not the applicant is familiar with the provisions of this chapter and other provisions of this Code of Ordinances concerning plumbing, water service and sanitary sewers. The Building and Zoning Department may, if in its opinion there is doubt as to the qualification of an applicant, require that the applicant submit to an oral or written examination. However, no examination shall be required if the applicant is the holder of a current master or journeyman plumber's license from an approved municipality.

130.04 FEES. A plumbing contractor shall pay a license fee of fifty dollars ($50.00) per year. All other plumbers shall pay a license fee of twenty dollars ($20.00) per year.

(Ord. 1206 – Aug. 01 Supp.)

130.05 BOND AND INSURANCE. Before any person is issued a license pursuant to this chapter, the person shall execute and deposit with the Building Official a bond in the sum of

five thousand dollars ($5,000.00), with sureties approved by the Building Official. The bond is to be held as security that the licensee will fulfill these conditions:

1. All plumbing work performed by the licensee or under the licensee's supervision shall be performed in accordance with the provisions of this Code of Ordinances.

2. The licensee shall pay all fines and penalties properly imposed for violations of this Code of Ordinances.

3. The City shall be held free from any liability sustained by reason of neglect or incompetence of such licensee or other person working under the licensee's supervision.

In addition, certificates shall also be deposited with the Building Official showing that the licensee has in force public liability insurance with limits of at least twenty thousand dollars ($20,000.00) and forty thousand dollars ($40,000.00), ten thousand dollars ($10,000.00) property damage insurance, also worker's compensation insurance.

130.06 REVOCATION. The Council may revoke any license issued pursuant to this chapter if it was obtained through nondisclosure, misstatement or misrepresentation of a material fact, or if a material provision of this chapter has been violated. Before a license may be revoked, the licensee shall be given notice, in writing, either personally or as required by the applicable Iowa Rules of Civil Procedure, enumerating the charges against the licensee. The licensee shall be entitled to a fair hearing by the Council not sooner than five (5) days or later than thirty (30) days after receipt of the notice. A majority vote of all the members shall be necessary to revoke a license. A person whose license has been revoked shall not be permitted to apply for another license within six (6) months after the date of revocation.

130.07 NOTICE TO BUILDING OFFICIAL OF NAME AND LOCATION. Each licensee under this chapter shall notify the Building Official of the address of the licensee's place of business, if any, and the name under which such business is carried on and shall give immediate notice to the Building Official of any change in either.

130.08 TRANSFERABILITY. No license issued pursuant to this chapter is transferable.

130.09 PERMITTING USE OF LICENSEE'S NAME BY ANOTHER. No licensee under this chapter shall allow his or her name to be used by another person, either for the purpose of

obtaining permits required by this chapter or for the purpose of doing business or work under the license.

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CHAPTER 131

INDIANOLA BIKE NITE

131.01 Food Vendor

131.02 Non-Food Vendor

131.03 Temporary Stands

131.04 Nuisance

131.05 Violations

131.06 Exception

131.01 FOOD VENDOR.

1. No person shall provide or sell food/beverages to the public on public property in Indianola on the third Friday, April through September of each year, unless the person has first obtained a food vendor's permit from the Supporters of Indianola Committee.

2. The fee for a food vendor's permit shall be established by the Supporters of Indianola. EXCEPTION: There shall be no food vendor fee for businesses on the square and one block off that serve the same food (as their business) on the sidewalk directly in front of and adjacent to their business in Indianola on the third Friday, April through September of each year.

3. The food vendor permit shall be granted on condition that the food vendor locate the vendor's sale stand at a location to be determined by the Supporters of Indianola Committee except to the above exception. All food vendors must show proof of liability insurance in the amount of $1,000,000 and name the Supporters of Indianola and the City as additional insured. All food vendors shall comply with the Iowa Department of Health Rules and Regulations governing the sale of food for consumption on the premises.

4. The Supporters of Indianola Committee has the exclusive authority to issue or not issue food vendor permits. All disputes regarding the issuance of a food vendor permit shall be finally decided by the Supporters

of Indianola Committee on a case-by-case basis. Preference may be given to vendors from Indianola and Warren County.

131.02 NON-FOOD VENDOR.

1. No person shall sell merchandise or entertainment to the public on public property in Indianola on the third Friday, April through September of each year, unless the person has first obtained a non-food vendor's permit from the Supporters of Indianola Committee.

2. The fee for a non-food vendor's permit shall be established by the Supporters of Indianola. EXCEPTION: There shall be no non-food vendor fee for businesses on the square and one block off that sell the same non-food products (as their business) on the sidewalk directly in front of and adjacent to their business in Indianola on the third Friday, April through September of each year.

3. The non-food vendor permit shall be granted on condition that the vendor locate the vendor's sale stand at a location to be determined by the Supporters of Indianola Committee except to the above exception. All non-food vendors must show proof of liability insurance in the amount of $1,000,000 and name the Supporters of Indianola and the City as additional insured.

4. The Supporters of Indianola Committee has the exclusive authority to issue or not issue non-food vendor permits. All disputes regarding the issuance of a non-food vendor permit shall be finally decided by the Supporters of Indianola Committee on a case-by-case basis. Preference may be given to vendors from Indianola and Warren County.

131.03 TEMPORARY STANDS. Temporary stands for the sale of food or other merchandise shall be permitted at locations designated by the Supporters of Indianola Committee.

131.04 NUISANCE. The sale of food/beverages or the location of a temporary stand for the sale of food/beverages or merchandise/entertainment outdoors without a permit or in violation of any of the provisions of this chapter is hereby declared to be a nuisance. The police officers of the City are hereby empowered to cause the offending stand or temporary stand or outdoor entertainment or place to be immediately dismantled and removed without notice.

131.05 VIOLATIONS. It shall be a simple misdemeanor and/or a municipal infraction for any person to supply or sell food/beverages and merchandise/entertainment within the City on the third Friday, April through September of each year, without first having obtained the appropriate vendor permit.

131.06 EXCEPTION. It shall not be a violation of this chapter and no vendor permit shall be required for a person to sell or supply food/beverages in Indianola on the third Friday, April through September of each year, on that person's own licensed premises providing that the person was in possession of a current Iowa Permit for the sale of food/beverages consumption on the premises as of April 1st of each year.

(Ch. 131 - Ord. 1490 – May 12 Supp.)

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CHAPTER 134

USE OF CITY RIGHT-OF-WAY

134.01 Definitions

134.02 Registration

134.03 Council Exemption

134.04 Right-of-Way Installation Permits

134.05 Completion of Installations

134.06 As Built Drawings

134.07 Interference With the City

134.08 New Subdivision and Scenic Areas

134.09 Relocation or Removal

134.10 Removal of Unauthorized Facilities

134.11 Compliance with Permit

134.12 Emergency Removal or Relocation

134.13 Coordination of Installations

134.14 Insurance Requirements

134.15 Pole Attachments

134.16 Appeal to City Council

134.17 No Easement, Permission Only, Not Assignable

134.01 DEFINITIONS. For the purpose of this chapter, certain terms are defined as follows:

1. "City right-of-way" means the area on, below, or above a City roadway, street, bridge, bicycle path, or City sidewalk, in which the City has interest, including other dedicated rights-of-way for travel purposes and utility easements. This area is measured between the property lines dedicated to and accepted for public use and providing access to abutting properties. This shall include state and other local government right-of-ways within the City. A City right-of-way does not include the airwaves above a City right-of-way with regard to cellular or other non-wire telecommunications or broadcasts service or utility poles owned by the City.

2. "Right-of-way users" means those entities, including the City of Indianola, that own or operate facilities, unless included in other ordinances, that are or are proposed to be installed within the City right-of-way for purposes of conducting, transmitting or distributing water, drainage, sanitary sewage, electricity, steam, gas, cable television, electronic communications or any form of telecommunications.

3. "Utility easements" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of such owner's property.

134.02 REGISTRATION.

1. The City of Indianola and all right-of-way users that have or propose to have facilities within the City right-of-way shall register annually with the City on or before January 1st of each year to provide the following information:

A. The identity and form of legal entity of the registrant and if wholly owned by another legal entity the identity of the owning entity.

B. The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement, and for local operations of the right-of-way user.

C. A description of the registrant's existing and proposed facilities within the City right-of-way (ArcView 9.0 format.mxd file to be placed on the City's GIS data system).

D. A description of the service that the registrant intends to offer or is currently offering within the City.

E. Information sufficient to enable the City to determine that the registrant has applied for or received any document or certificate required by State of Federal law to provide services or facilities within the City.

F. Proof of registration with the Iowa "one-call" system.

2. Each right-of-way user registration, and registration by the City, shall be accompanied by such registration fee as shall be set from time to time by the City Council, unless a franchise fee is already in place for that particular utility, or that utility is tax exempt.

3. All new utility extensions, feeders, loops or other means of service or distribution of electric, communication, or cable television shall be placed underground whether within a public utility easement or public right-of-way, unless an exemption has been granted as provided in Section 134.03. This subsection does not apply to those existing systems that have been damaged, relocated for public improvement projects, or the upgrading of a system that does not consist of more than 50% of existing poles.

4. The purpose of the registration required by this section is to assist the City in enforcement of it's regulations; and, to assist the City in the abatement of dangerous

conditions or conditions that threaten to interfere with the property of others by reason of the registrant's facilities.

134.03 COUNCIL EXEMPTION. Whenever, because of unusual circumstances, or practical difficulties involved in carrying out the provisions of this chapter, the Council may grant a specific exemption for individual situations. Any person, firm or corporation requesting an exemption from the strict application of this chapter may make application to the Council for the granting of such application, provided that:

1. A written request for such an exemption is submitted indicating the section of this chapter from which the applicant requests the exemption and stating the grounds on which it is requested.

2. No such exemption shall be granted by the Council without a public hearing. Notice thereof shall be given at least (4) days but no more than (20) twenty days in advance of the hearing by a single publication in a newspaper of general circulation within the City.

3. The Council may grant the exemption with such safeguards as it feels are necessary in order to conform with the intents and purposes of this chapter provided that the Council finds that granting the exemption will not adversely affect the public interest.

134.04 RIGHT-OF-WAY INSTALLATION PERMITS.

1. A right-of-way user shall obtain, by application to the Building and Zoning Department, a permit for installation in the City right-of-way whenever the right-of-way user desires to place, construct, or bury anything in the City right-of-way. No permit is required if the Building and Zoning Official determines that the work is routine maintenance. Such application shall be accompanied by:

A. Written and graphic material that states and shows the particular part of or point on the City right-of-way where placement, construction, or excavation is proposed to occur.

B. A statement of the beginning and ending dates for the time during which the work is to be done and completed.

C. Notification to all other registered right-of-way users, the City of Indianola, with facilities (adjacent to/within thirty (30) feet) in the vicinity of

the proposed installation or repair work have reviewed the plan for the proposed work and have no objection. So as not to have undue delay, the right-of-way user making application for the permit need only wait ten (10) working days from the time of submitting its plans to the other right-of-way users. Failure by a right-of-way user to respond to Building and Zoning Official such requested plan review within ten (10) days shall constitute an expression of no objection. If there is a dispute between right-of-way users as to location of the respective facilities in a manner reasonably consistent with how various kinds of facilities of each segment of City right-of-way, the Building and Zoning Official shall determine the placement of such facilities in a manner reasonable. Plans and specifications for the proposed work in such detail as the Building and Zoning Official shall reasonably require to show that the work as proposed conforms to City ordinances, regulations, and policies.

2. In making excavations in the City right-of-way the right-of-way user shall do the work in a manner devised to cause the least possible inconvenience to the public.

3. The right-of-way user shall properly protect, according to safety standards generally accepted at the time that the installation in the City right-of-way occurs, all excavations and obstructions by proper placement of barricades, warning lights and such other or additional devices in accordance with The Manual on Uniform Traffic Control Devices, as circumstances may warrant. If, in the opinion of the Building and Zoning Official, such excavation or obstruction is not properly and safely protected, the Building and Zoning Official shall notify the right-of-way user and the right-of-way user shall comply immediately with the instructions of the Building and Zoning Official. Failure or refusal by the right-of-way user to follow such instructions shall constitute a violation of this section.

4. Any trenches or excavations opened by a right-of-way user in the City right-of-way shall be filled by the right-of-way user. All backfilling in the City right-of-way shall be done in accordance with City specifications.

5. Temporary street surfacing shall be placed in excavations in a City street as soon as the same has been backfilled. Pavements, sidewalks, curbs and gutters or other portions of streets and public places opened, disturbed or damaged shall be promptly restored and replaced with like materials at the expense of the right-of-way user and left in as good a condition as before the opening, disturbance or damage occurred. In the event that like materials for replacement are not available, the Building and Zoning Official may approve the use of an alternative material that

is reasonably close in effect to the original material. The Building and Zoning Official will consider and evaluate for approved use, on a case by case basis, such alternative methods that meet standards of good engineering practice.

6. Where a cut or disturbance is made by a right-of-way user to a section of a street or a sidewalk paving, rather than replacing only the area cut, the right-of-way user shall replace the full width of the existing sidewalk or street paving and the full length of the section or sections cut, a section being that area marked by expansion joints or scoring, or as directed by the City.

7. Right-of-way users shall maintain, repair and keep in good condition for a period of two (2) years following such disturbance all portions of the City street surface disturbed by a right-of-way user.

8. No right-of-way user or any person acting on the right-of-way user's behalf shall commence any non-emergency work on the City right-of-way without five (5) working days advance notice to the City. In the event of an emergency involving public safety, the Building and Zoning Official may issue the permit orally, but the written documentation of the application for and issuance of the permit shall be completed as soon as practicable after the work has started.

9. Street crossings and sidewalk crossings by right-of-way user facilities shall be bored at those locations where reasonably required by the Building and Zoning Official. Some examples of where such boring may be required are: major streets, new streets, and locations of major events that conflict with construction.

10. No permit shall be issued for the installation of right-of-way user facilities in the City right-of-way unless the right-of-way user has filed with the City a registration statement in accordance with Section 134.02 above.

11. No permit for installation of right-of-way user facilities in the City right-of-way shall be issued by the Building and Zoning Official unless the right-of-way user has paid such installation permit fee as shall be established from time to time by resolution of the City Council.

12. All trees, landscaping and grounds removed, damaged or disturbed as a result of installations by a right-of-way user in the City right-of-way shall be replaced or restored as soon as reasonably possible, unless it is determined by the Building and Zoning Official to be unnecessary or landscaping is in violation of City code.

134.05 COMPLETION OF INSTALLATIONS. A right-of-way user shall promptly complete all installations in the City right-of-way so as to minimize disruption of the City ways and other public and private property. All installation work authorized by permit within the City right-of-way, including restoration work, shall be completed as soon as possible but not later than 180 days of the date the Building and Zoning Official issued a permit for the installation. An extension may be granted for good cause due to circumstances beyond the control of the right-of-way user.

134.06 AS BUILT DRAWINGS. A right-of-way user shall, within sixty (60) days of making an installation of facilities in the City right-of-way, furnish the City with one (1) complete set of as built drawings, in an electronic format compatible with the City's mapping system, drawn to scale and certified by the contact person for the right-of-way user as accurately depicting the location of the facilities installed pursuant to the permit. When the Building and Zoning Official has issued a single installation permit document relative to multiple installations linked in a single project, the as built drawings pertaining to those installations are not required as aforesaid until sixty (60) days after completion of all installations to be done for the project.

134.07 INTERFERENCE WITH THE CITY. A right-of-way user shall so construct, maintain, operate and locate its facilities in the City right-of-way so as not to interfere with the construction, location, maintenance and operation of City sanitary sewer, drainage, communication, signal and fiber optic facilities, or any other operations or facilities of the City. The City shall have the right and power by resolution of its City Council, or by order of the Building and Zoning Official, to specifically direct the location of right-of-way user facilities with reference to City facilities, existing or proposed, in such a manner as shall serve the public use and convenience. Failure or refusal by a right-of-way user to promptly follow such directions shall be a violation of this section.

134.08 NEW SUBDIVISION AND SCENIC AREAS. To minimize interference and conflict with the City and other utility locations, the following utility locations shall be required:

1. Electric lines shall be placed on public utility easement within five (5) feet of the private property line furthest from the right-of-way.

2. Electronic communication or any form of telecommunications lines shall be placed within the public utility easement no closer than five (5) feet from the electric lines nor five (5) feet from the right-of-way line.

3. Cable television lines shall be placed within the public utility easement no further than five (5) feet from right-of-way line.

4. Water mains shall be placed along the north and west right-of-way no closer than seven (7) feet to the north and no further than ten (10) feet from existing or proposed curb line when possible.

5. Storm sewers shall be placed within the right-of-way no further than four (4) feet on either side of the curb line when possible.

6. Gas mains shall be placed along the south and east right-of-way no closer than four (4) feet nor further than seven (7) feet from existing or proposed curb line.

7. Distances from curb will be modified along cul-de-sacs and paving widths in excess of twenty-five (25) feet.

8. Sanitary sewers shall be placed under the road surface when possible and manholes shall be no further than three (3) feet off curb line.

An illustration showing the utility locations required by this section is on file in the office of the Building and Zoning Official.

134.09 RELOCATION OR REMOVAL. Within sixty (60) days following written notice from the City, a right-of-way user shall, at its own expense, temporarily or permanently relocate, change or alter the position of any facilities within the City right-of-way whenever the City shall have determined that such relocation, change or alteration is reasonably necessary for the construction, repair, maintenance, or installation of any City public improvement, or for the operations of the City in or upon the City right-of-way.

134.10 REMOVAL OF UNAUTHORIZED FACILITIES. Within thirty (30) days following written notice from the City, a right-of-way user that owns, controls or maintains any unauthorized facility within the City right-of-way shall remove such facilities from the City right-of-way at the right-of-way users sole expense. A facility is unauthorized if:

1. Any license, permit or authorization required by Federal, State or City regulations with respect to the facilities has not been obtained, or has been revoked, or allowed to expire.

2. The facilities are not installed in accordance with the permit for installation or other requirements of this chapter.

134.11 COMPLIANCE WITH PERMIT. All installation work and activities for right-of-way user facilities in the City right-of-way shall be in accordance with the installation permit issued by the Building and Zoning Official. Any work done that is not in accordance with an applicable installation permit shall be a violation of this section by the right-of-way user; and, failure to do work required by an installation permit shall be a violation by the right-of-way user, regardless of involvement of agents or contractors of the right-of-way user. The Building and Zoning Official is not responsible for on site inspections.

134.12 EMERGENCY REMOVAL OR RELOCATION. The City shall have the right and power to cut or move any right-of-way facilities in the City right-of-way as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. The City shall endeavor to give notice of such emergency disruption, but nothing in this chapter shall be deemed to create a duty to such notice. Restoration of right-of-way facilities that have been cut or moved as aforesaid shall be done by the right-of-way user at its own expense.

134.13 COORDINATION OF INSTALLATIONS. All right-of-way users with facilities in the City right-of-way or who expect to install facilities in the City right-of-way shall coordinate such activities with the City and with each other right-of-way user.

134.14 INSURANCE REQUIREMENTS.

1. A right-of-way user that has or expects to install facilities within the City right-of-way shall maintain in effect such insurance appropriate to the nature of the facilities installed or to be installed, and the location of such installations. Except the City of Indianola, it's utilities, and franchised utilities, which are covered under other ordinances.

2. The Building and Zoning Official may require performance security in an amount commensurate with the scope of the work, to secure satisfactory installation in accordance with the installation permit, by means of an irrevocable letter of credit in a form approved by the City Attorney, or by cash deposit.

134.15 POLE ATTACHMENTS.

1. Nothing in this chapter shall be deemed to require a right-of-way user to attach its facilities to the poles of the City of Indianola municipal electric utility, or to the utility poles of any other right-of-way user. Installation of right-of-way user facilities underground in the same places where other right-of-way user facilities are attached to an existing set of utility poles shall be permitted.

2. Nothing in this chapter shall be deemed to confer upon any right-of-way user any right or entitlement to make any attachment to the utility poles of the City of Indianola municipal electric utility or to the utility poles of any other right-of-way user.

3. Nothing in this chapter shall be deemed to prevent the City of Indianola municipal electric utility from requiring any right-of-way user to make a payment of a pole attachment fee and "make ready" charges for attachment of facilities to the utility poles of the City of Indianola municipal electric utility; and, to enter into and abide by the terms and conditions of a pole attachment agreement.

4. At those locations on the City right-of-way where there are already existing utility poles of either the City of Indianola municipal electric utility or of some other right-of-way user, a second set of permanent poles is strictly prohibited, except when done by or at the request of the City. If there is not sufficient space on the existing utility poles for attachment of the proposed additional right-of-way user facilities, or if the right-of-way user proposing to install right-of-way user facilities at the site of the existing poles cannot reach an agreement with the owner of the poles to allow attachment of those facilities, then those facilities shall be installed underground.

134.16 APPEAL TO CITY COUNCIL. A right-of-way user that is denied registration, denied a right-of-way installation permit, that has its right-of-way installation permit revoked, or that believes that the fees imposed do not conform to the requirements of Chapter 480A, Code of Iowa, may request in writing that such denial, revocation or fee imposition be reviewed by the City Council. The City Council shall act within sixty (60) days of a timely written request. A decision by the City Council affirming the denial, revocation, or fee imposition must be in writing and supported by a written finding establishing the reasonableness of the decision.

134.17 NO EASEMENT, PERMISSION ONLY, NOT ASSIGNABLE. The provisions of this chapter, and the permits and authorizations granted pursuant to this chapter, shall not be deemed to create or grant to anyone any easement, estate, or interest in the property of the City. A permit to install right-of-way user facilities in the City right-of-way is a mere license, that is, an authorization to the stated entity to go onto the land of the City to do only that

which is explicitly stated by the permit, that may be revoked by the City as provided in this chapter, and that cannot be assigned to another. A right-of-way user that occupies City right-of-way or makes an installation of facilities in the City right-of-way on the basis of a purported assignment of an installation permit granted to another entity, shall be in violation of this section.

(Ch. 134 - Ord. 1333 – Nov. 05 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

135.14 Curb Cuts

135.15 Placing Construction Materials in Streets

135.16 Weight Limit on Construction Road

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, storm water, sump pump discharge, 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)

(Ord. 1411 – Aug. 08 Supp.)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale without permission of the Council, or to engage in a business of selling and delivery of same from a vehicle or other mobile conveyance on any public streets, sidewalks, alleys or rights-of-way except when such an area is closed with the permission of the Police Chief.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

D. Date of commencement of the work and estimated completion date.

No permit shall be issued unless the contractor or the property owner desiring the work to be done gives three (3) hours' notice of the proposed excavation to the Building Official.

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 or Cash Deposit Required.

A. The application for a permit shall be accompanied by a surety bond in the amount of one thousand dollars ($1,000.00), or in the event that the applicant desires, the applicant may procure a blanket bond in an amount of not less than five thousand dollars ($5,000.00). The blanket bond can be used for any number of permits, so long as the bond is in effect for the entire duration of the maintenance period, and the cost of all projects for which the bond stands as security does not exceed the amount of the blanket bond. For these purposes, costs shall be computed at five dollars ($5.00) per square foot for the area excavated and replaced. Any bond issued under this section shall be drawn on a surety company authorized to do business in the State of Iowa, and shall guarantee to the City that the streets so excavated shall be replaced to the City's specifications, and shall further guarantee that if the replacement area should require any maintenance within two (2) years after its completion and acceptance by the City's Building Official, the maintenance shall be done at the owner's or contractor's expense.

B. In lieu of either of the bonds permitted by paragraph A, the applicant for the permit may make a cash deposit in the amount of five dollars ($5.00) per square foot of the proposed excavation. The return of the cash deposit

shall be conditioned upon the replacement of the streets to the City's specifications, and shall be further conditioned on the excavated street not requiring any repair for a period of two (2) years after its completion and acceptance by the City's Building Official.

C. In the event the street is not replaced to the City's satisfaction, or in the event that the replacement requires repairs within two (2) years after its acceptance by the Building Official, the City may make the replacement or repair at the owner's or contractor's expense. After a period of two (2) years has passed since the final approval of the relaying and repairing of the surface of a street or alley, the Building Official, if no repair is required, may then order the deposit or bond required by this section, or any part thereof, to be returned to the owner or contractor.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

A. Bodily Injury - $50,000.00 per person; $100,000.00 per accident.

B. Property Damage - $50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor 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 Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. The Building Official shall give directions for cutting the pavement or surface of the street or alley. The permit, when issued, shall be signed by the contractor or property owner, or both, if the Building Official so directs, and shall provide that the contractor or owner, or both, if the Building Official directs, shall guarantee to properly do the work and restore the surface of the street and protect and save harmless the City from any and all liability. A separate permit shall be required for each excavation.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein;

except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.14 CURB CUTS.

1. Permit Required. It is unlawful for any person to break out or remove a concrete curb along any paved street in the City or to construct a private drive from an unpaved street, without first obtaining a permit therefor from the City. No permit required by this section shall have any force or effect unless approval of the proposed work shall be endorsed on the permit by the Building Official.

2. Fee. The fee for a permit required by this section is twenty dollars ($20.00).
(Ord. 1205 – Aug. 01 Supp.)

3. Paving. In all cases where a permit has been granted pursuant to this section and the concrete curb removed, the driveway shall be paved by concrete extending from the curb to the inside of the existing sidewalk line within thirty (30) days from the removal of the curb with not less than six (6) inches of concrete. If it is shown to the satisfaction of the Building Official that the existing sidewalk has substantially the same strength as six (6) inch concrete, the paving need only extend to the outside of the sidewalk line. All work is to be done in a workmanlike manner, inspected and approved by the Building Official.

4. Failure to Reconstruct Pavement. If, after thirty (30) days after the breaking out or removal of any concrete curb, the person doing the work fails or refuses to pave the driveway as required by this section, the City shall have the right to do so

without notice, and assess the cost thereof as a special tax against the abutting property and collect the tax according to law.

135.15 PLACING CONSTRUCTION MATERIALS IN STREET. It is unlawful to place or deposit any building material in any street without obtaining a written permit from the Police Chief, subject to revocation by the Council. All material shall be placed in such a manner as not to obstruct the gutters of the street. The person occupying a portion of the street pursuant to this section shall, at all times, enclose or guard the obstruction in such manner as to protect persons and animals from injury and shall have warning lights placed and operating through the entire night.

135.16 WEIGHT LIMIT ON CONSTRUCTION ROAD. The maximum vehicular weight limit shall be 20 tons on any and all temporary construction roads between Hwy. 92 and West 10th Avenue during the construction of the 2011 South Y Street Paving Project. This section shall be void upon and after final acceptance of the paving project by the City.

(Ord. 1473 – Aug. 11 Supp.)

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 Required

136.07 Permit Required

136.08 Sidewalk Standards

136.09 Barricades and Warning Lights

136.10 Failure to Repair or Barricade

136.11 Interference with Sidewalk Improvements

136.12 Encroaching Steps

136.13 Openings and Enclosures

136.14 Fires or Fuel on Sidewalks

136.15 Defacing

136.16 Debris on Sidewalks

136.17 Merchandise Display

136.18 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. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:

A. Vertical separations equal to three-fourths (¾) inch or more.

B. Horizontal separations equal to one (1) inch or more.

C. Holes or depressions equal to three-fourths (¾) inch or more and at least four (4) inches in diameter.

D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half (½) inch or more.

E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths (¾) inch or more.

F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

G. A sidewalk with any part thereof missing to the full depth.

H. A change from the design or construction grade equal to or greater than three-fourths (¾) inch per foot.

2. "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.

3. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

4. "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 a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by the failure of the abutting property owner to use reasonable care in the removal of the snow or ice. If damages are to be awarded under this section against the abutting property owner, the claimant has the burden of proving the amount of the damages. To authorize recovery of more than a nominal amount, facts must exist and be shown by the evidence which afford a reasonable basis for measuring the amount of the claimant's actual damages, and the amount of actual damages shall not be determined by speculation, conjecture or surmise. All legal or equitable defenses are available to the abutting property owner in an action brought pursuant to this section. The City's general duty under this section does not include a duty to remove natural accumulations of snow or ice from the sidewalks. However, when the City is the abutting property owner it has the specific duty of the abutting property owner set forth in this section.

(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.

(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 REQUIRED.

1. Before any new dwelling, business building or commercial building is occupied or put into its ultimate use, or when any existing dwelling, business building or commercial building, including the real estate on which the dwelling or building is located, is improved, reconstructed or replaced by seven thousand five hundred dollars ($7,500.00) or more as determined by the Building Official's most current valuation data, a permanent sidewalk shall be built in front of the building for the entire width of the lot and where the lot in question is a corner lot, the sidewalk shall be built for the entire length of the lot along the side which abuts the street. However, sidewalks shall not be required on improved property where the improvements are only accessory building or structures.

2. Notwithstanding any other provisions of this Code of Ordinances, all dwellings, business buildings and commercial buildings, whether occupied or unoccupied, shall have, after January 1, 1996, a permanent sidewalk built for the entire width and/or length of the lot or lots upon which the dwelling, business building or commercial building is located, and the sidewalks shall be built for the entire width and/or length of all sides of the lot or lots which abut a street. This subsection applies only to the sidewalk installations recommended in the School

Route Sidewalk Study performed by JBM Engineers and Planners in 1994 and approved by the City Council in 1994.

3. Notwithstanding any other provisions of this Code of Ordinances, all dwellings, business buildings and commercial buildings, whether occupied or unoccupied, shall have, after January 1, 1999, a permanent sidewalk built for the entire width and/or length of the lot or lots upon which the dwelling, business building or commercial building is located, and the sidewalks shall be built for the entire width and/or length of all sides of the lot or lots which abut a street.

4. In the event that no grade has been set or there is no curb and gutter on the street upon which the sidewalk, is to be placed, the Council may waive the sidewalk requirement on application of the affected property owner and upon the affected property owner signing an agreement to install such a sidewalk within one hundred twenty (120) days after the property owner has been notified that a curb and gutter has been installed and/or that the grade has been set. The agreement shall be verified and placed on record in the office of the Warren County Recorder, and shall be a covenant running with the land binding the heirs and assigns of the property owner.

5. When the strict application of standards or requirements established by this section would cause substantial hardship or impose unreasonable restrictions regarding the installation of a sidewalk because of natural or physical conditions or limitations not created by the owner or developer, the Council may grant such waivers and/or variances from these standards or requirements as may be necessary pursuant to the following procedure. At such time when the conditions or limitations are eliminated, the owner or developer will be required to install such sidewalk within one hundred twenty (120) days after notification by the City.

A. The applicant under this subsection shall prepare an application to the Planning and Zoning Commission for review of the required sidewalk. The applicant may request a waiver of the sidewalk requirement or a variance of the sidewalk requirement. Within forty-five (45) days after receiving the application, the Planning and Zoning Commission shall recommend to the Council to either approve, approve subject to conditions, or disapprove the request. Failure by the Commission to act within forty-five (45) days shall be deemed a recommendation for approval of the request.

B. The Council shall establish criteria and specific design standards to assist it and the Planning and Zoning Commission when considering

applications for waivers and/or variances. All such criteria and specific design standards shall be established in such a way as to ensure the orderly and harmonious development of a City-wide sidewalk system in such a manner as will safeguard the public's health, safety and general welfare.

C. Upon recommendation from the Planning and Zoning Commission to the Council, the applicant's request will be put on the agenda for the next regularly scheduled Council meeting for final approval or disapproval by the Council. If the Council rejects the request, the Council will advise the applicant of any changes which are desired or that should have consideration before approval will be given. The applicant shall then submit the revised original for certification by the Council. The Commission and the Council, in approving or disapproving any requests and in making requests for alterations or amendments to the request as presented, shall be governed by the general policies as set out by this chapter and by the criteria and specific design standards established by the Council.

6. 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.

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.

1. The Council shall provide by resolution, and have on file in the office of the Clerk, full and complete plans and specifications for the construction of sidewalks and driving crossings over the sidewalks. All sidewalks, whether constructed by the owners of the abutting property or by the City, shall be constructed under the supervision and inspection of the Building Official or other person authorized by the Council, and shall be in strict accordance with the plans and specifications approved by the Council and on file in the office of the Clerk.

2. It is the duty of the City Engineer, or other employee so authorized by the Council, to give to any property owner desiring to lay a sidewalk, the proper grade and to establish the lot line immediately adjacent thereto.

3. Unless otherwise provided by resolution of the Council, all sidewalks in the residential areas shall be located one (1) foot outside of the lot line. All sidewalks in the business district shall extend from the lot line to the curb line. The business district, for the purposes of this section, shall be as follows:

> The sidewalks on and around the public square and the sidewalks running along both sides of the streets intersecting with the public square, a distance of approximately one-half (½) block from the intersection of the streets with the public square to the alley line closest to the intersection, except Salem Avenue, which shall include sidewalks one (1) block from the intersection of Salem Avenue with the public square.

In other areas, as defined by the Zoning Ordinance, the Council shall by resolution establish the location of the sidewalk.

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or

shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to the first or second floor of any building upon or over any part of any sidewalk, street or alley without permission by resolution of the Council.

136.13 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.

4. Overhanging Windows. Subject to Council permission, show or display windows may be constructed in buildings abutting on sidewalks not less than twelve (12) feet in width where the projecting window does not extend more than twenty (20) inches over the lot line and the upper cornice roof construction does not extend more than thirty-six (36) inches over the lot line.

136.14 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.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 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, storm water, sump pump discharge, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

(Ord. 1411 – Aug. 08 Supp.)

136.17 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.

136.18 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])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
50	July 20, 1936	169	--
51	January 5, 1937	177	December 14, 1953
53	May 17, 1937	186	December 6, 1954
73	January 7, 1919	227	August 18, 1958
76	May 5, 1941	231	March 14, 1959
84	May 17, 1943	239	November 2, 1959
86	June 21, 1943	244	June 6, 1960
92	June 6, 1944	251	February 13, 1961
93	June 6, 1944	252	March 20, 1961

94	June 6, 1944	257	December 18, 1961
95	July 3, 1944	259	June 18, 1962
99	July 2, 1945	270	August 5, 1963
(number not assigned)	July 7, 1924	275	March 16, 1964
103	March 4, 1946	280	October 19, 1964
104	April 1, 1946	281	October 19, 1964
107	August 19, 1946	284	November 16, 1964
111[1]	April 7, 1947	285	November 16, 1964
115	July 21, 1947	289	May 17, 1965
118	April 5, 1948	295	February 7, 1966
121	June 14, 1948	296	February 7, 1966
130	May 2, 1949	299	June 6, 1966
132[2]	October 3, 1949	300	--
142	May 1, 1950	312	March 20, 1967
146	August 7, 1950	324	August 19, 1968
153	June 4, 1951	327	December 16, 1968
155	June, 1951	328	January 23, 1969
156	September 3, 1951	333	August 4, 1969
161	September 24, 1952	345	March 2, 1970

[1] Repealed by Ordinance No. 136, adopted December 19, 1949.

[2] Amended by Ordinance No. 137, adopted February 6, 1950.

162[3]	April 28, 1952	351	April 20, 1970
163	May 19, 1952	372	June 7, 1971
ORDINANCE NO.	**ADOPTED**	**ORDINANCE NO.**	**ADOPTED**
374	June 21, 1971	850	January 3, 1989
391	December 20, 1971	856	January 16, 1989
405	August 25, 1972	863	May 1, 1989
406	September 18, 1972	865	May 15, 1989
410	December 18, 1972	875	August 7, 1989
411	December 18, 1972	878	September 18, 1989
416	January 3, 1973	890	July 2, 1990
417	January 3, 1973	891	July 2, 1990
425	March 5, 1973	892	July 2, 1990
431	May 21, 1973	898	August 6, 1990
450	October 15, 1973	904	September 4, 1990
451	November 5, 1973	907	October 1, 1990
466	June 17, 1974	912	November 5, 1990
476	November 4, 1974	913	November 19, 1990
482	February 17, 1975	916	December 3, 1990
486	May 19, 1975	919	January 7, 1991
488	June 2, 1975	924	April 1, 1991
504	February 17, 1976	928	May 6, 1991
511	June 21, 1976	929	May 6, 1991

[3] Repealed by Ordinance No. 170.

537	May 2, 1977	976	September 21, 1992
552	July 5, 1977	978	October 5, 1992
566	December 19, 1977	981	October 19, 1992
578	April 17, 1978	988	November 16, 1992
593	September 5, 1978	989	December 7, 1992
613	March 19, 1979	994	January 4, 1993
622	June 18, 1979	997	January 4, 1993
648	February 19, 1980	1031	September 19, 1996
701	April 19, 1982	1031	February 5, 1994
708	February 22, 1983	1072	March 18, 1996
721	July 18, 1983	1080	August 5, 1996
725	September 19, 1983	1088	October 21, 1996
727	October 3, 1983	1092	December 2, 1996
729	January 16, 1984	1093	January 6, 1997
755	April 16, 1984	1111	September 2, 1997
762	September 4, 1984	1115	October 13, 1997
766	December 17, 1984	1116	November 3, 1997
781	September 16, 1985	1126	April 6, 1998
790	March 3, 1986	1133	August 3, 1998
812	May 18, 1987	1156	September 7, 1999
823	November 16, 1987	1158	October 4, 1999
843	August 1, 1988	1167	February 22, 2000
844	September 19, 1988	1168	March 20, 2000
847	October 3, 1988	1174	June 5, 2000

850	November 7, 1988	1177	July 17, 2000

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
1191	March 5, 2001		
1229	August 5, 2002		
1230	August 5, 2002		
1237	October 7, 2002		
1265	October 6, 2003		
1268	October 20, 2003		
1287	June 7, 2004		
1302	September 20, 2004		
1303	September 20, 2004		
1326	March 21, 2005		
1328	April 18, 2005		
1337	August 1, 2005		
1338	September 6, 2005		
1339	October 17, 2005		
1365	October 2, 2006		
1366	October 16, 2006		
1390	November 5, 2007		
1434	June 1, 2009		
1437	July 6, 2009		
1438	August 17, 2009		
1451	March 15, 2010		

1452	March 15, 2010		
1476	July 5, 2011		
1497	May 21, 2012		
1506	January 22, 2013		

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CHAPTER 138

STREET GRADES

138.01 Established Grades
138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
37	September 19, 1933	792	March 17, 1986
119	April 9, 1948	804	November 17, 1986
184	August 2, 1954	866	May 15, 1989
222	May 19, 1958	926	April 15, 1991
236	August 3, 1959	1034	October 17, 1994
237	August 31, 1959	1071	March 18, 1996
247	August 15, 1960	1082	August 5, 1996
253	March 20, 1961	1279	April 5, 2004
277	July 10, 1964	1298	August 2, 2004

278	July 21, 1964	1429	May 4, 2009
313	May 1, 1967	1461	September 7, 2010
323	June 17, 1968	1472	May 16, 2011
334	July 29, 1969	1493	April 2, 2012
335	September 3, 1969		
336	October 6, 1969		
366	April 5, 1971		
426	April 2, 1973		
517	September 7, 1976		
551	June 20, 1977		
655	March 3, 1980		
656	April 7, 1980		
763	September 4, 1984		
791	March 17, 1986		

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets

139.02 Changing Name of Street

139.03 Recording Street Names

139.04 Official Street Name Map

139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Indianola, 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.

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

140.01 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. In addition, access spacing on thoroughfares is as follows: (i) Intersection spacing - 600' minimum; (ii) Entrance spacing - 300' minimum; (iii) Separation of Entrance from Intersection - 150' minimum.

(Ord. 1499 – Aug. 12 Supp.)

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. By resolutions of the Council dated May 20, 1951, there were fixed and established controlled access facilities on U.S. Highway Nos. 65 and 69 (Project FN-11) and Iowa Highway No. 92 (Project No. P-1023W), all within the City.

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.

5. Stopping and Parking. Stop, park or leave standing a vehicle, whether attended or unattended, upon the paved portion or upon the shoulders, or the right-of-way except at designated rest areas or in case of an emergency or other dire necessity.

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CHAPTER 145

MANUFACTURED AND MOBILE HOMES

145.01 Definitions

145.02 Conversion to Real Property

145.03 Foundation Requirements

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. "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.

3. "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 "mobile home park" is not to be construed to include 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 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 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. Dealer's Stock. Mobile homes or manufactured homes on private property as part of a dealer'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 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 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)

CHAPTER 146

MOBILE HOME PARKS

146.01 Purpose

146.02 Construction to Conform

146.03 Permit Required

146.04 Inspections

146.05 Permitted Uses

146.06 Lot Area, Lot Frontage and Yard Requirements

146.07 Streets

146.08 Utilities

146.09 Exterior Lighting

146.10 Parking

146.11 Height

146.12 Refuse Disposal

146.01 PURPOSE. The purpose of this chapter is to provide certain minimum standards for mobile home parks to the mutual advantage of mobile home occupants and the community at large.

146.02 CONSTRUCTION TO CONFORM. All mobile home parks established within the City shall be constructed and operated in accordance with the provisions of this chapter.

146.03 PERMIT REQUIRED. Before construction of a mobile home park is started, the owner shall obtain a permit therefor from the Council, which permit shall not be issued until there has been furnished to the Council an adequate showing that the park will be constructed in accordance with this chapter. The following layout and design information shall be submitted in support thereof:

1. A topographic survey of the proposed mobile home park area to a scale of not less than one (1) inch to equal forty (40) feet, including the following:

   A. Sewer and drain system;

   B. Water distribution system;

   C. Gas distribution system;

   D. Electrical service lines;

   E. Yard lighting;

F. Telephone service lines;

G. Street locations.

2. A drawing of a typical mobile home lot and layout, including the location of stands, patio and parking spaces on the lot, with a scale of one-quarter (¼) inch equaling one (1) foot.

3. Such other plans, agreements or information as the Council may feel is necessary in a particular instance.

146.04 INSPECTIONS. The construction of a park shall be regularly checked by agents of the City to see if it conforms to the requirements of this chapter. No mobile home space within a park shall be occupied until a final inspection certificate has been issued by the Clerk, certifying that it has been completed in accordance with the provisions of this chapter.

146.05 PERMITTED USES. The permitted uses within a mobile home park are as follows:

1. Principal Permitted Uses: For use as a mobile home park in accordance with regulations of the State and the minimum requirements contained in this chapter, but not including mobile home sales and display areas. No part of any park shall be used for nonresidential purposes except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. This shall in no way prohibit the sale by a resident owner of a mobile home located on a mobile home stand and connected to the pertinent utilities.

2. Accessory Uses: Accessory uses may include common facility service buildings which provide laundry facilities, accessory supplies, vending machines and similar facilities; also, park management buildings, maintenance buildings, community buildings and other uses of a similar nature. All such buildings shall be located within the park area, and shall be restricted to the use of the park occupants. All buildings permitted by this subsection shall require a building permit issued by the Clerk and be in compliance with all provisions of this Code of Ordinances.

146.06 LOT AREA, LOT FRONTAGE AND YARD REQUIREMENTS.

1. The minimum area proposed for a mobile home park shall be at least ten (10) acres of gross development area. The maximum density allowed for the gross development area shall be eight (8) mobile home units per gross acre.

2. All mobile home park perimeter yard requirements shall be not less than thirty-five (35) feet.

3. No part of any mobile home space shall be closer to any public street upon which the park adjoins than seventy-five (75) feet; however, interior park streets may be located within the setback area.

4. The individual mobile home lot shall contain not less than four thousand five hundred (4,500) square feet in area, with a minimum depth of ninety (90) feet. Each lot shall have a front yard not less than fifteen (15) feet in depth measured from the edge of the surfaced private street to the closest point of the lower face of the mobile home. Side and rear yards shall be provided and maintained so as to provide minimum separation at the nearest point between mobile homes, and other buildings and structures on adjoining lots, of at least twenty-five (25) feet; however, this may be reduced to fifteen (15) feet between a mobile home and a garage or other accessory structure, provided the garage or accessory structure has a firewall.

5. A minimum of two hundred fifty (250) square feet for each lot shall be provided for one (1) or more recreational areas which shall be easily accessible to all park residents. The required recreational area shall be computed in addition to the minimum lot area specified in this section.

146.07 STREETS.

1. The entrance road connecting the park streets with a public street shall have a minimum road pavement width of thirty-one (31) feet, measured back-to-back of the curbs. All interior streets shall be not less than twenty-five (25) feet in width, measured back-to-back of the curbs. All streets shall be constructed with either hot mix asphaltic concrete or portland cement concrete, with an approved curb to provide for drainage, in the following manner:

A. Hot mix asphaltic concrete:

(1) Base: Minimum four (4) inches thick, crushed stone, gravel or other appropriate durable material compacted to maximum practical density.

(2) Wearing Surface: Asphaltic concrete, minimum one and one-half (1½) inches thick, compacted to maximum practical density.

B. Portland Cement Concrete: Portland cement concrete, minimum five (5) inches thick on a prepared subgrade, constructed in accordance with accepted practices, with expansion joints where driveways and walks abut each other or curbs.

2. The street system shall provide convenient circulation. Closed ends of dead-end streets shall be provided with adequate paved vehicular turning or backing space. A turning circle shall be at least sixty (60) feet in diameter.

3. Streets shall be privately owned and shall be maintained by the park owner or representatives of the owner.

146.08 UTILITIES.

1. Water:

A. A water line of four (4) inch minimum diameter shall be connected to the City water system and run to a meter pit. Water will be sold to the park owner through a large meter. The meter pit shall be located just outside of the park boundary on City property. This meter pit manhole must be a minimum of four (4) feet inside diameter.

B. Hydrants shall be located within the park area in such a manner that no part of any mobile home is more than two hundred (200) feet from a hydrant.

C. All water lines on the park side of the meter are the sole property of the park owner.

D. All lines are to be installed in compliance with the then existing provisions of this Code of Ordinances.

2. Sewer:

A. All sewer lines shall be constructed of material acceptable to the City and in accordance with City specifications, and the provisions of this Code of Ordinances.

B. Manholes shall be provided at every change in direction or grade, at every junction of two (2) or more main sewers, and at intervals of not more than four hundred (400) feet.

C. Each mobile home lot shall be equipped with at least a four (4) inch sewer connection so located as to provide a suitable connection from the home with a continuous grade and not subject to surface drainage. Connection to the City sewer shall be at a manhole, which manhole shall be installed by the developer. The entire sewer system within the mobile home park shall be maintained by the park owner, who shall be the sole owner of all sewer lines.

3. Electrical:

A. The complete electrical system shall be new and all parts thereof shall comply with:

(1) State codes and the provisions of this Code of Ordinances;

(2) In the absence of a pertinent provision of this Code of Ordinances, or where such provisions are deemed inadequate, installations shall comply with the National Electrical Code unless otherwise modified herein.

B. Primary distribution lines and service equipment installed and maintained by the City utility may be overhead or underground.

C. Service drops from underground, aboveground or overhead feeder distribution shall be installed in suitable conduit between point of connection to feeder and service equipment.

D. A weatherproof over-current protection device and disconnecting means shall be provided for each mobile home space. Individual mobile home space over-current protection device, disconnect means and branch service shall be a minimum of fifty (50) amp. for two hundred (200) volt service.

146.09 EXTERIOR LIGHTING. Adequate lights shall be provided to illuminate streets, driveways and walkways for the safe movement of vehicles and pedestrians at night.

146.10 PARKING. Each mobile home space shall be provided with two (2) off-street parking spaces. No-parking signs must be posted on one (1) side of all streets and prohibition against parking shall be strictly enforced by the park owner.

146.11 HEIGHT. No mobile home or accessory building shall exceed twenty (20) feet in height.

146.12 REFUSE DISPOSAL. The following refuse disposal requirements shall apply to mobile home parks:

1. At least two (2) approved refuse disposal containers shall be properly placed at the rear of each mobile home.

2. The owner of the park shall be responsible for providing refuse pickup.

3. Collection systems of garbage and trash shall be approved by the State Department of Health, or health authorities, and shall comply with all State laws and the provisions of this Code of Ordinances.

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

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CHAPTER 151

PLANTINGS IN PARKING

151.01 Definitions

151.02 Permit Required

151.03 Issuance of Permit

151.04 Planting Regulations

151.05 Street Tree Categories

151.06 Prohibited Species

151.07 Cul-de-sac Islands and Boulevards

151.08 Maintenance of Street Trees

151.09 Protection of Street Trees

151.10 Nuisance Abatement

151.11 Appeals to Council

151.01 DEFINITIONS. As used in this chapter, unless the context otherwise indicates, the following terms have the meanings ascribed herein:

1. "Street trees" means trees on land lying between property lines on either side of all streets, avenues, or ways within the City.

2. "Street parking" means that portion of the public land located between property line (usually the outside edge of the public sidewalk) and the inside edge of the curb and/or driving surface.

3. "Boulevard parking" means the open land area between two hard-surfaced streets that have the same name.

4. "Cul-de-sac island" means the open land area located in the center of a hard-surfaced street turn-around.

5. "Flowers" means annual and perennial plants which consist of a shortened axis bearing modified leaves.

6. "Shrubs" means a low-growing, woody plant or bush.

151.02 PERMIT REQUIRED. No person shall plant, move, or remove any tree in any street parking, boulevard, parking, or public place in the City or cause such action to be done by others without first obtaining a written permit from the Building Official in accordance with the following:

1. Exemption. A permit is not required for planting flowers in parkings. Only flowers with a maximum height of thirty (30) inches or less may be planted in any street parking, boulevard or cul-de-sac. However, flowers planted in the twenty-five (25) foot radius of intersections shall not exceed twenty-four (24) inches above the centerline.

2. Residential or Agricultural Permits. An application for a residential or agricultural permit shall be accompanied by a plan or drawing which shall accurately show:

A. The property of the applicant adjacent to the street parking upon which a permit to plant is sought, along with the existing public sidewalk, street, parking area, and curb located between the applicant's property line and the outside edge of the curb, all of which shall be to a definite indicated scale.

B. The species and location of each tree proposed to be planted and of those trees already existing in the street parking and within twenty (20) feet of the proposed tree planting, also in definite scale.

C. The location of any fire hydrant, utility pole, traffic sign, street light pole, mail box and/or other obstructions located upon the street parking, all of which shall be in scaled relation to the other information required.

3. Commercial or Industrial Permits. Street trees may be planted in hard-surfaced (i.e. concrete) street parkings provided they are a minimum of three (3) feet from the inside edge of the curb, and that before any street tree may be planted, the owner of the property abutting said parking must first make application for and secure a permit from the Building Official as hereinafter provided. A conceptual plan showing planting design in relation to the surrounding area, i.e. City Square, shopping mall, may also be required. If concrete or other hard surface does not run continuously from the curb to the sidewalk, then the provisions governing residential or agricultural permits shall apply. The City may plant trees in this area at the direction of the Council. Application data shall include:

A. Local address of the applicant's property which abuts the street parking upon which a permit to plant is sought.

B. The species, number, height and trunk diameter of each tree proposed to be planted.

C. Any additional information which the Building Official shall deem is reasonably necessary to enable the making of a fair determination of whether or not a permit should be issued hereunder.

151.03 ISSUANCE OF PERMIT. The Building Official may, after review and consideration of any application as above required, issue a permit to an applicant. Any such permit issued shall be to plant trees in strict compliance with terms and provisions of this chapter. A copy of the application and plan or drawing as finally approved by the Building Official shall be kept on file in the office of the Building Official. All such permits shall be issued upon the express condition that they may be revoked at any time by the Building Official and that all trees planted pursuant to said permit may be removed by the City or its designee without liability to any person or property for such removal. Further, no such permit shall be issued until the applicant shall have executed and filed with the Building Official an indemnification agreement whereby said applicant agrees to save and hold harmless the City from any and all liability for damage or injury to person or property proximately caused by trees planted, moved or removed pursuant to said permit. All street trees shall be planted within one hundred twenty (120) days after approval unless an extension is requested in writing by the applicant and approved by the Building Official. An extension of one year can be granted for good reasons. If the one hundred twenty (120) days elapses, a new permit with fee shall be required to plant street trees. A five dollar ($5.00) fee for each permit shall be paid prior to application approval.

151.04 PLANTING REGULATIONS.

1. Trees should be spaced so there will be little or no interference with their full development. The minimum spacing shall be twenty-five (25) feet for Category A; forty (40) feet for Category B; and sixty (60) feet for Category C, measured from center to center on each street tree.

2. Trees shall not be planted closer than one-half (½) of the minimum spacing requirement per category to the neighboring property owner's side or rear lot line, i.e. Category A = 12.5 feet; Category B = 20 feet; Category C = 30 feet.

3. No impervious material shall be placed nearer than twenty-four (24) inches to the trunk of the tree.

4. No street tree shall be planted nearer than two and one-half (2½) feet from the curb or the inside existing or potential sidewalk line and centered in parkings if possible. This eliminates all tree plantings in the parkings under nine (9) feet in width.

5. No street tree shall be planted closer than twenty-five (25) feet from the ends of the street radii at intersections, or closer than ten (10) feet to the edge of a driveway. No street tree shall be planted within ten (10) feet of any fire hydrant.

6. The minimum spacing from a light standard or transmission pole shall be ten (10) feet for Category A; twenty (20) feet for Category B, and thirty (30) feet for Category C measured from center of street tree to standard or pole.

7. The City shall not allow the planting of street trees in the City parking within five (5) horizontal feet of the exterior dimension of any sanitary sewer, storm sewer or water lines; and it may only be the type listed in this chapter under Category A.

8. Street trees planted under power lines may only be the type listed in this chapter under Category A.

9. The City reserves the right to restrict the planting of trees if there are too many other underground utilities in the parking such as gas, phone, etc.

10. Category A and B trees may be used in Category C plantings as can Category A be planted in Category B.

11. As new tree species are introduced, they will be added to these lists.

12. A variety of street trees planted along City blocks shall be encouraged and enforced by the Building Official.

13. All street trees shall be of nursery stock unless previously approved by the Building Official.

151.05 STREET TREE CATEGORIES. The following is a list of street trees by category which may be planted in street parkings. Street trees not listed must receive prior planting approval from the Building Official.

"A" Category (Parking 9 feet to 14 feet)			
Common Name	*Minimum Spacing*	*Height*	*Spread*

Amur Maple (tree form only)	25	20	20
Japanese Tree Lilac	25	15	10
Flowering Crabs:			
Radiant	25	25	25
Vanguard	25	25	25
Snowdrift	25	25	25
Zumi	25	25	25
Marshalls Ovama (Columnar)	25	25	25
Pink Spires	25	25	25
Columnar Flowering Crab - Sargents	25	25	25
Purpleleaf Plum	25	15	15
Globe Norway Maple	25	20	20
Washington Hawthorn	25	25	25
Scarlet Hawthorn	25	25	25
Bradford Pear	25	20	20

"A" Category (Parking 9 feet to 14 feet) (continued)			
Common Name	*Minimum Spacing*	*Height*	*Spread*
White Fringe Tree	25	25	25
Corkscrew Willow	25	25	25
Euonymous Bunageana (North Platte)	25	25	25
Pagoda Dogwood	25	25	25
Bladdernut	25	20	20

Note: Where utility wires are conflicting, only trees in Category "A" may be planted.

"B" Category (Parking 14 feet to 20 feet)			
Common Name	*Minimum Spacing*	*Height*	*Spread*
Columnar Norway Maple	40	50	25
Columnar Sugar Maple	40	35	10
Pyramidal American Linden	40	50	35
Littleleaf European Linden	40	50	35
Greenspire Linden	40	50	35
Christine Buisman Elm	40	45	35
Mountain Ash	25	30	15
Cork Ash	40	50	45
Maple, Sycamore	40	35	30
Maple, Red	40	35	30
Hesse Ash	40	35	30
Shubert Chokecherry	40	35	30
River Birch (single stem only)	40	50	35
Blue Ash (Quadrangulate)	40	40	35

"C" Category (Parking 20 feet and Over)			
Common Name	*Minimum Spacing*	*Height*	*Spread*
Maples:			

Black Maple	60	75	50
Schwedler Maple	60	50	30
Sugar Maple	60	75	50
Crimson King	60	50	40
Fassems Black	60	50	40
Royal Red	60	50	40
Norway	60	50	40
Oak:			
White Swamp Oak	60	75	50
Red Oak	60	75	50

"C" Category (Parking 20 feet and Over) (continued)			
Common Name	*Minimum Spacing*	*Height*	*Spread*
Ash:			
Summit	60	50	40
Autumn Purple	60	50	40
White	60	80	50
Green	60	60	40
Marshall Seedless	60	50	40
Others:			
Maindenhair Tree (Ginko Male)	40	50	40
Hackberry	40	50	40
Linden	40	50	40
Kentucky Coffeetree	60	60	50
London Plane Tree	60	60	50
White Beech	50	50	50

151.06 PROHIBITED SPECIES. It is unlawful to plant any of the following described species of street trees upon any street parking in the City along with any new species and varieties that are known to be, or which may become a public nuisance. This list includes but is not limited to the following:

Prohibited Species		
Elm	Birch	Black Locust

Box Elder	Catalpa	Cottonwood
Ginko (female only)	Hawthorn	Mulberry, Common
Carolina Poplar	Russian Olive	Soft or Silver Maple
Sumac	Willow	Poplar
Common fruit trees		
Trees bearing large nuts (i.e. walnut, hickory, butternut)		
Conifers (evergreens)		
All species of shrubbery and bushes — except as provided in the cul-de-sac and/or boulevard island sections. (Exception: Street trees, flowers and shrubs which produce thorns or any sharp pointed spines shall not be planted in street parkings, boulevards or cul-de-sac islands.)		

151.07 CUL-DE-SAC ISLANDS AND BOULEVARDS. Street trees and shrubs may be planted in cul-de-sac islands and boulevards. Prior to planting, a design plan and a signed statement in writing accepting maintenance responsibility from at least three (3) abutting property owners must be submitted to and approved by the Building Official. Such planting shall be subject to the same limitations as provided in this chapter for street tree planting in street parkings.

151.08 MAINTENANCE OF STREET TREES. It is the duty of all property owners having street trees abutting or overhanging any public property, street parkings, public alleys, public sidewalks and other private property:

1. To keep all trees pruned so that the lower branches are not less than eight (8) feet in height above public sidewalks and sixteen (16) feet above the traveled portion of all public streets, public alleys and primary highways.

2. To remove or prune all limbs of street trees that are or may become damaging, dangerous, or a potential nuisance to abutting real and personal property.

3. To maintain all street trees in such a manner so as not to interfere with the visions of drivers or vehicles approaching any intersection, street, or alley.

4. To keep all street trees trimmed so as not to unduly obstruct street lights or traffic signs and signals.

151.09 PROTECTION OF STREET TREES. No person shall break, deface, injure, kill or destroy any street tree in any street parking, park or public place in the City. Also, no person shall place or permit any toxic, liquid, gaseous, or solid substances to seep, drain or be placed on or about any public street tree. During all public building and construction operations, the contractor or builder shall erect protective barriers around all street trees during the period of construction.

151.10 NUISANCE ABATEMENT. All street trees which are planted in violation of or not maintained in strict compliance with the provisions of this chapter are hereby declared to constitute a public nuisance. The Building Official shall cause written notice to be served on the property owner requiring such nuisance to be corrected within a specified period, or the Building Official shall cause such nuisance to be abated, and the costs thereof assessed against the owner of the property in the manner of ordinary taxes.

151.11 APPEALS TO COUNCIL. Whenever, because of unusual circumstances, there are practical difficulties involved in carrying out the provisions of this chapter, the Council may grant a specific exemption for individual situations, provided the Council shall first find that a special and unusual individual circumstance makes the strict application of this chapter impractical and that the exemption granted with appropriate safeguards is in conformity with the intent and purposes of this chapter.

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CHAPTER 155

SIGN CODE

155.01 Title

155.02 Purpose; Scope

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155.30 Marquees and Canopies

155.31 Signs Permitted and Prohibited Generally in Specific Zoning Classifications

155.01 TITLE. This chapter shall be known as the "Indianola Sign Code," may be cited as such and will be referred to herein as "this chapter."

155.02 PURPOSE; SCOPE. The purpose of this chapter is to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the design, quality of materials, construction, location, electrification and maintenance of all signs and sign structures not located within a building.

155.03 DEFINITIONS. As used in this chapter, unless the context otherwise indicates, the following terms have the meanings ascribed herein:

1. "Area sign" means a relatively large sign, whether illuminated or not, mounted on self-supporting poles away from any building, and usually meant to bring attention to an integrated business operation, such as a shopping area or subdivision, or a business, the nature of whose services offered requires that customers be notified of the service location a substantial distance away from that location, such as gasoline service stations.

2. "Awning" means any structure made of cloth type materials or metal with a metal frame attached to a building and projecting over a thoroughfare, when the same is so erected as to permit its being raised to a position flat against the building when not in use.

3. "Business" means a place where different types of trade, commerce, etc., is carried on, usually under the ownership of one person, company or partnership.

4. "Canopy" means any structure, other than an awning, made of cloth type materials or metal with metal frames attached to a building, projecting over a thoroughfare, and carried by a frame supported by the ground or sidewalk.

5. "Erect" means to build, construct, attach, hang, place, suspend, or affix, and also includes the painting of wall signs.

6. "Facing or surface" means the surface of the sign upon, against or through which the message is displayed or illustrated on the sign. The square footage of a sign, wherever the same is required to be computed for the purposes of this chapter, shall be determined by computing the square footage of the "facing" or "surface" of such sign.

7. "Free standing or ground signs" means any sign supported by uprights or braces placed into the ground and not attached to any building.

8. "Illuminated sign" means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign proper.

9. "Incombustible material" means any material which will not ignite at or below a temperature of twelve hundred (1200) degrees Fahrenheit and will not continue to burn or glow at that temperature.

10. "Marquee" means any hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a thoroughfare.

11. "Other advertising structure" means any marquee, canopy or awning as further defined herein.

12. "Projecting sign" means any sign which is attached to a building or other structure and extends more than twelve (12) inches beyond the building.

13. "Roof sign" means any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

14. "Sign" means any and every advertising sign, identification sign, freestanding sign, ground sign, wall sign, roof sign, illuminated sign, projecting sign, temporary sign, marquee, awning and canopy and includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out-of-doors in view of the general public.

15. "Structural trim" means the molding, battens, cappings, nailing strips, latticing, and platforms which are attached to the sign structure.

16. "Temporary sign" means any sign, banner, pennant, valance or advertising display constructed of cloth, canvass, light fabric, cardboard,

wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only.

17. "Wall sign" means any flat sign of solid face construction which is placed against a building or other structure and attached to the exterior front, rear or side wall of any building or other structure.

155.04 NONAPPLICABILITY TO CERTAIN SIGNS. The provisions and regulations of this chapter, except for Section 155.19 and Section 155.24, do not apply to the signs set forth in this section.

1. Nonilluminated signs denoting the architect, engineer or contractor when placed upon work under construction and not exceeding thirty-two (32) square feet in area.

2. Nonilluminated professional nameplates not exceeding one square foot in area.

3. Nonilluminated real estate signs not exceeding nine (9) square feet in area in residential areas which advertise the sale, rental or lease of the premises upon which said signs are located only.

4. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

5. Traffic or other municipal signs, private traffic directional signs, legal notices, railroad crossing signs, danger and such temporary emergency or non-advertising signs as may be approved by the administrative officer.

6. Garage sale signs not exceeding six (6) square feet in area and removed one week after erection or twenty-four (24) hours after completion of sale, whichever comes first.

7. Nonilluminated painted or woven business identification signs on an awning provided that such signs do not exceed twelve (12) square feet in area and twelve (12) inches in height.

8. Political signs subject to the following conditions:

A. Property owner's consent is given to the placement of the sign.

B. Signs are removed from public right-of-way within seven (7) days after the election.

C. Signs do not obstruct visibility of vehicular traffic.

D. All political signs within residential zoning districts other than highway frontage do not exceed nine (9) square feet in area.

(Ord. 1407 – Aug. 08 Supp.)

155.05 MISCELLANEOUS SIGNS. All miscellaneous signs such as overhead banners, etc. which are not specifically covered by this chapter may be permitted on an individual basis by decision of the administrative officer.

155.06 SIGNS PAINTED ON BUILDINGS. Signs painted on the exterior surface of a building or structure may be permitted on an individual basis by decision of the administrative officer, provided, however, if such signs have raised borders, letters, characters, decorations or lighting appliances, they shall be subject to the provisions of sections 155.13 and 155.25(3). All such painted signs shall also be subject to provisions of Section 155.24 of this chapter where applicable. All such signs shall be limited to one hundred twenty (120) square feet in area and shall only apply to business operations which are conducted in the building upon which they are painted.

155.07 PERMITTED SIGNS. All signs that were erected prior to November 30, 1972, or had a sign permit existing on November 5, 1984, will be allowed to stay

erected as constructed. All other signs shall be constructed in accordance with this chapter.

155.08 ENFORCEMENT AUTHORITY. The administrative officer appointed by the City Manager is hereby authorized and directed to enforce all the provisions of this chapter.

155.09 PERMIT REQUIRED. It is unlawful for any person to erect, repair, alter, relocate or maintain within the City any sign or other advertising structure as defined in this chapter, without first obtaining an erection permit from the Building and Zoning Department, and making payment of the fee required herein. All illuminated signs shall, in addition, be subject to the provisions of the Electrical Code of the City. Minor repairs and maintenance do not come under this chapter. Banners in the public right of way shall be permitted by City Council policy as it may be amended from time to time.

(Ord. 1248 – May 03 Supp.)

155.10 APPLICATION FOR PERMIT. Application for sign erection permits shall be made upon forms provided by the Building and Zoning Department and shall contain or have attached thereto the following information:

1. Name, address and telephone number of the applicant.

2. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.

3. Position of the sign or other advertising structure in relation to nearby buildings or structures.

4. If required by administrative officer, two (2) blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.

5. Copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this chapter and all other laws and ordinances of the City.

6. Name of person, firm, corporation or association erecting the structure.

7. Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.

8. Water Tank, Utility Poles. No signs other than those designating the owner or locality shall be erected on any water tank, utility pole or municipally owned structure. This subsection does not apply to banners in the public right of way as permitted by City Council policy as it may be amended from time to time.

(Ord. 1248 – May 03 Supp.)

9. Off-premises Signs. No signs of any sort advertising any business enterprise, product or service shall be located on property other than upon the property on which said business is located. No signs of any sort advertising any general product shall be located on property other than upon the property of a bona fide business selling such product, except yard sale signs with the consent of property owner. This subsection does not apply to banners in the public right of way as permitted by City Council policy as it may be amended from time to time.

(Ord. 1248 – May 03 Supp.)

No signs of any sort that are portable, painted on or attached to an operative self-propelled vehicle, or that are otherwise designed to be capable of portability by being situated upon or within any vehicle or device capable of being moved, shall be located on property other than upon the property on which said business is located. This prohibition includes, but is not limited to, changeable message signs, reader boards, trailers, panel trucks, semi-truck trailers, products bearing advertising language, and any other device whose function is to be stationary and serve as a sign. The Director of Community Development may approve temporary off-premise signs for advertising a grand opening for a business and other special promotions, sales, or events.

Such exception may be granted for a time period not exceeding one week leading up to the special event. This section does not prohibit mobile signs from being temporarily located on non-business premises during the time that the business associated with the sign is being conducted.

(Ord. 1521 – Aug. 13 Supp.)

10. Such other information as the administrative officer shall require to show full compliance with this chapter and all other laws and ordinances of the City.

155.11 APPROVAL OF ELECTRICAL WIRING. The application for a permit for erection of a sign or other advertising structure in which electrical wiring and connections are to be used shall be submitted to the administrative officer. The administrative officer shall examine the plans and specifications respecting all wiring and connections to determine if the same complies with the Electrical Code of the City, and the administrative officer shall approve such permit if the said plans and specifications comply with said code, or disapprove the application if noncompliance with such code is found.

155.12 PUBLIC LIABILITY INSURANCE. Every applicant for a permit for the erection of a sign to be erected within ten (10) feet of any public way shall, before the permit is granted, have public liability insurance for such sign in the amount of one hundred thousand dollars ($100,000.00). Such insurance shall be continuously maintained as long as the sign remains.

155.13 PERMIT ISSUANCE; EXPIRATION. It is the duty of the administrative officer, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if all the requirements of this chapter and all other laws and ordinances of the City are complied with, the administrative officer shall then issue the erection permit. If the work authorized under an erection permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.

155.14 FEES. Every applicant for a sign permit shall pay such fee to the Clerk in the following amount:

Signs 24 square feet or less..... $25.00

Signs over 24 square feet and not
more than 100 square feet $50.00

Signs over 100 square feet..... $75.00 plus $.20 per square foot
over 100 square feet.

In computing the area of a sign, only one face of a double face sign shall be taken as the area of the sign. ***(Ord. 1203 – Aug. 01 Supp.)***

155.15 REVOCABILITY OF PERMIT. All rights and privileges acquired under the provisions of this chapter, or any amendment thereto, are mere permits revocable by the Council, and all sign permits shall contain this provision. In the event that by action of the Council any permit is revoked, it shall be unlawful thereafter to permit such sign to continue to remain on the premises, and it is the duty of the owner, agent, or person in possession of said premises, and each of them, to remove such sign forthwith.

155.16 DATE TO BE POSTED. Every sign or other advertising structure hereafter erected shall have painted in a conspicuous place thereon, the date of erection.

155.17 RIGHT OF ENTRY. Subject to constitutional limitations and upon presentation of proper credentials, the administrative officer or any duly authorized representatives may enter at reasonable times any building, structure or premises in the City to perform any duty imposed upon the administrative officer by this chapter.

155.18 INSPECTION. All signs for which a permit is required by this chapter or any ordinance of the City shall be subject to inspection by the administrative officer. Footing inspections will be required for all ground signs. Electric signs shall be inspected before erection.

155.19 UNSAFE OR UNLAWFUL SIGNS. If the administrative officer finds that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in

violation of the provisions of this chapter, the administrative officer shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within ten (10) days after such notice, such sign or other advertising structure may be removed or altered to comply, by the administrative officer at the expense of the permittee or owner of the property upon which it is located. The administrative officer shall recommend to the City Manager the revocation of the permit covering such sign or other structure regulated herein, and thereupon said permit may be revoked by order of the Council. The administrative officer may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice. Existing signs shall comply with the provisions of this section.

155.20 NONCONFORMING SIGNS. Every sign or other advertising structure lawfully in existence on November 5, 1984, but which is prohibited by the terms and conditions of this chapter, shall not be altered or moved unless it be made to comply with the provisions of this chapter.

155.21 REMOVAL OF IRRELEVANT SIGNS. Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent or person having the use of the building or structure upon which such sign may be found, within ten (10) days after written notification from the administrative officer, and upon failure to comply with such notice within the time specified in such order, the administrative officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached.

155.22 EXEMPTION; APPLICATION TO COUNCIL. Whenever, because of unusual circumstances, there are practical difficulties involved in carrying out the provisions of this chapter, the Council may grant a specific exemption for individual situations, provided the Council shall first find that a special and unusual, individual circumstance makes the strict application of this chapter impractical and that the exemption granted with appropriate safeguards is in conformity with the intent and purpose of this chapter. Any person requesting an exemption from the strict application of this chapter may make application to the Council for the granting of such application, provided that:

1. A written application for such an exemption is submitted indicating the section of this chapter from which the applicant requests the exemption and stating the grounds on which it is requested. The application shall be filed with the Clerk and shall be accompanied by a fee of thirty dollars ($30.00).

2. No such exemption shall be granted by the Council without a public hearing. Notice thereof shall be given at least four (4) days but no more than twenty (20) days in advance of the hearing by a single publication in a newspaper of general circulation within the City.

3. The Council may grant the exemption with such safeguards as it feels are necessary in order to conform with the intents and purposes of this chapter provided that the Council finds that granting of the exemption will not adversely affect the public interest.

155.23 APPEAL PROCEDURE. If an applicant is aggrieved by a decision of the administrative officer which involves the interpretation or administration of this chapter said applicant may appeal the decision to the Council, as follows:

1. A written application stating the decision appealed from, the date of the decision and the reason that the applicant feels that the administrative officer was in error shall be filed with the Clerk. The application shall be accompanied by a fee of thirty dollars ($30.00).

2. No such appeal shall be granted by the Council without a public hearing. Notice thereof shall be given at least four (4) days, but no more than twenty (20) days in advance of the hearing by a single publication in a newspaper of general circulation within the City.

3. On the filing of an appeal, the administrative officer shall immediately transfer all papers constituting the record to the office of the Clerk for submission to the Council. An aggrieved applicant shall have sixty (60) days within which to appeal the decision of the administrative officer.

155.24 PROHIBITED SIGNS.

1. Generally. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

2. Interference with Traffic. No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any street or alley in such a manner as to obstruct free and clear vision, or at any location, where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or which makes use of the words *STOP, LOOK, DRIVE-IN, DANGER* or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.

3. Flashing Lights. It is unlawful for any person to operate any sign which is wholly or partially illuminated by flashing or intermittent lights between the hours of 11:00 p.m. and dawn of the next day.

4. Revolving Beacons. It is unlawful for any person to erect or maintain any revolving beacon.

5. Obscene Matter. It is unlawful for any person to display upon any sign or other advertising structure any obscene, indecent or immoral matter.

6. Roof Signs. It is unlawful for any person to erect, relocate or alter within the City any roof sign, except within C-2 (Highway Commercial) and in compliance with the requirements of Section 155.31(6)(D).

(Ord. 1420 – May 09 Supp.)

7. Projecting Signs. It is unlawful for any person to erect, alter, relocate or maintain in the City any projecting sign except as allowed by Section 155.31(7)(E), provided the proposed location of the sign is within blocks 6, 7, 8, 12, 13, 16, 17 and 18 of the Original Town Plat.

(Ord. 1508 – Apr. 13 Supp.)

8. Water Tank, Utility Poles. No signs other than those designating the owner or locality shall be erected on any water tank, utility pole or municipally owned structure.

9. Off-premise Signs. No signs of any sort advertising any business, enterprise, product or service shall be located on property other than upon the property on which said business is located. No signs of any sort advertising any general product shall be located on property other than upon the property of a bona fide business selling such product, except yard sale signs with the consent of the property owner and electronic video signs. However, the Director of Community Development may approve temporary off-premise signs that are non-commercial and have a civic or community orientation and message.

(Ord. 1399 – Feb. 08 Supp.)

155.25 CONSTRUCTION SPECIFICATIONS GENERALLY.

1. Maintenance. All signs, together with all of their supports, braces, guys and anchors shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times.

2. Strength of Signs. All signs and other advertising structures shall be designed and constructed to withstand a wind load and dead load as required in the Building Code or other ordinances of the City.

3. Reflectors, Lights, Glare. Gooseneck reflectors and lights are permitted on ground signs and walls signs. However, any lights shall be installed only in such manner that the direct rays of such lights are concentrated on the sign and prevented from causing a glare on, or striking, the street or nearby property; or the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare upon the street or nearby property.

155.26 GROUND SIGNS.

1. Fastening Characters. All letters, figures, characters or representations in cutout or irregular form, maintained in conjunction with, attached to, or superimposed upon any ground sign shall be safely and securely built or attached to the sign structure.

2. Maximum Surface Area. The size for all ground signs shall conform with the Zoning Ordinance (Chapter 165).

3. Height and Property Line Limitation. It is unlawful to erect any ground sign whose total height is greater than twenty-five (25) feet above the level of the street upon which the sign faces, or above the adjoining ground level, if such ground level is above the street level. No portion of any sign shall extend beyond the property line.

4. Location of Ground Sign. Unless otherwise stated, no ground sign shall be nearer than twenty (20) feet to any other sign or nearer than two (2) feet to any building or structure. Each business shall be allowed only one ground sign per structure, housing said business.

5. Setback Line. The setback line of any ground sign shall be in accordance with the Zoning Ordinance.

6. Maintenance of Grounds. All ground signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

155.26.5 ELECTRONIC MESSAGE BOARDS. The intent of this section is to allow electronic video message boards or screens as an accessory sign to retail and service establishments. Such signs shall provide community or civic service announcements and general community information. Off premise advertising not to exceed 80% of the total amount of messaging is permitted.

1. Materials. All electronic or video signs for which a permit is required under this chapter shall have a surface or facing of noncorrosive material. Every electronic sign, including frames, braces and supports thereof, shall be approved by the administrative officer as in compliance of Building and Electrical Codes.

2. Location. Electronic video message boards shall be placed, tilted or screened as not to interfere with vehicle traffic. Wall mount message boards are prohibited. No sign shall be placed in a required front yard.

3. Maximum Surface Area. The size of the signs shall conform to Section 155.31 for each specific zoning classification.

4. Maximum Number. The maximum number of electronic video signs, for which a permit is required, placed on a premises shall not exceed 10.

5. Minimum Height. Any electronic or video sign must be a minimum of 8 feet above grade when placed in areas subject to pedestrian traffic.

(Ord. 1399 – Feb. 08 Supp.)

155.27 WALL SIGNS.

1. Materials; Design; Approval. All wall signs for which a permit is required under this chapter shall have a surface or facing of noncorrosive material. Every wall sign, including the frames, braces and supports thereof, shall be approved by the administrative officer as in compliance with the Building and Electrical Codes of the City.

2. Location; Placement. No wall sign shall cover wholly or partially any wall opening, or project beyond the ends or top of the wall to which it is attached.

3. Maximum Surface Area. The size of wall signs shall conform with the Zoning Ordinance (Chapter 165). In applying this section, a wall sign shall be that portion of a given wall of which the interior side thereof is occupied by a particular business. In determining whether or not the maximum area of wall signs has been exceeded, the total area of all wall signs displayed on a given wall shall be included.

4. Minimum Height. No wall sign thicker than three (3) inches shall be attached to a wall at a height of less than eight (8) feet above the sidewalk or ground.

5. Extension From Wall. The front facing of a wall sign shall not be permitted to extend more than twelve (12) inches beyond the surface of the building to which it is attached. No wall sign shall overhang the public right-of-way beyond the twelve (12) inches provided in the previous sentence.

6. Obstructing Openings. No wall sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape.

7. Painted or Individual Letters. To compute the square footage of a painted or individually lettered wall sign, imaginary lines shall be established that are equal distance from each other and encompass the first, last and tallest letters of each word.

155.28 TEMPORARY SIGNS.

1. Permit Required; Duration. Permits for temporary signs, when required, shall authorize the erection of such signs and their maintenance for a period not exceeding ten (10) days, two times per calendar year. Two consecutive ten day periods are permissible. Also, permits for temporary signs may be issued for the erection of such signs and their maintenance for two additional three-day periods per calendar year separated by at least one day. Any other section of this chapter notwithstanding, no permit shall be required for a sign which is of a civic, political or religious nature providing they are removed immediately after the event in which the organization is notifying the public.

(Ord. 1241 – Feb. 03 Supp.)

2. Contents Permitted; Exception. The advertisement contained on any temporary sign shall pertain only to the business, industry or pursuit conducted on or within the premises on which such sign is erected or maintained. This provision shall not apply to signs of civil, political or religious nature.

3. Area; Materials. No temporary sign of combustible material shall in more than one of its dimensions exceed four (4) feet or one hundred (100) square feet in area, and such signs in excess of sixty (60) square feet shall be made of rigid materials, that is, of wallboard or other light materials with frames.

4. Projection. No temporary wall sign shall extend over or into any street, alley, sidewalk or other public thoroughfare a distance greater than three (3) inches from the wall upon which it is erected.

5. Obstructing Openings. No temporary sign shall be erected so as to prevent free ingress to or egress from any door, window or fire escape, nor shall such sign be attached to any standpipe or fire escape, nor shall such sign be placed over any wall opening.

6. Attachment. Every temporary sign shall be attached to the wall or the ground with wire, steel cables or other materials acceptable to the administrative officer; and no strings, ropes or wood slats for anchorage or support purposes shall be permitted.

7. Fees. Every applicant for a temporary sign permit shall pay a fee to the Clerk as follows: $25.00 for the first 10 day period; $5.00 for the second 10 day period; and $25.00 for each 3 day period.

(Ord. 1241 – Feb. 03 Supp.)

155.29 AWNINGS.

1. Permit and Fee Required. Permits and fees for awnings shall be required as provided in the Uniform Building Code. No sign fee will be required.

2. Advertising Permitted. No advertising shall be placed on any awnings, except that the name of the owner and the business, industry or pursuit conducted within the premises may be painted or otherwise permanently placed in a space not exceeding twelve (12) inches in height or twelve (12) square feet in area on the front and side portions thereof.

3. Required Materials. Awnings may be constructed of fire resistant cloth type materials or metal. All awning frames and supports shall be of metal or wood.

4. Minimum Height. All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the sidewalk or public thoroughfare.

5. Projection. No awning shall be permitted to extend beyond a point twelve (12) inches inside the curb line.

6. Attachment. Every awning shall be securely attached to and supported by the building. Posts or columns beyond the building line are not permitted for awnings.

7. Compliance with Building Code. Awnings and structures authorized under this section shall meet all the specifications of the Building Code of the City.

155.30 MARQUEES AND CANOPIES.

1. Permit and Fee Required. Permits and fees for marquees and canopies shall be required as provided in the Uniform Building Code.

2. Permit Revocation. The permit required by the Uniform Building Code shall allow the City the right to revoke such permit and to cause the removal of the structure authorized thereunder, and at the expense of the owner thereof, at any time the Council may by ordinance or otherwise direct the removal thereof in the interest of public safety and welfare, or may cause the removal of all other marquees or canopies from the street and within the block in which such marquees or canopies may be located. It is hereby expressly provided that any permit which fails to contain the reservation of the right to revocation required by this section shall be without effect.

3. Public Liability Insurance Required. Any person having control of any marquee, canopy or fixed awning shall file with the administrative officer a certificate of insurance certifying that such applicant has public liability insurance for such marquee or canopy in the amount of fifteen thousand dollars ($15,000.00) which shall be in lieu of insurance provisions of Section 155.12. Such insurance shall be continuously maintained as long as the marquee, canopy or fixed awning remains.

4. Compliance with Building Code. Marquees and canopies under this section shall meet all the specifications of the Building Code of the City.

5. Signs on Marquees and Canopies. Signs on marquees and canopies are allowed. All such signs shall conform to all the applicable provisions of this chapter.

6. Removal Right. Nothing contained herein in this section, nor the payment of any fees herein required, shall abridge or be construed as denying the City the right to cause removal of the marquee or fixed awning as provided in subsection 2 of this section.

7. Minimum Height. All marquees and canopies shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the sidewalk or public thoroughfare.

8. Projection. No marquee or canopy shall be permitted to extend beyond a point twelve (12) inches inside the curb line.

155.31 SIGNS PERMITTED AND PROHIBITED GENERALLY IN SPECIFIC ZONING CLASSIFICATIONS. The following signs are permitted within the designated zoning classifications and only if they are erected in compliance with and not in violation with any other part of this chapter or any other ordinance of the City. All other signs are hereby expressly prohibited.

1. A-1 — Agricultural. Signs permitted are:

A. Nameplates attached flat against the wall of the main building not to exceed one square foot in area.

B. Church or civic identification signs not to exceed forty-eight (48) square feet in area. ***(Ord. 1407 – Aug. 08 Supp.)***

C. Temporary signs advertising the lease or sale of the premises not to exceed nine (9) square feet in area.

2. R-1 — Single-family Residential. Signs permitted are:

A. Nameplates attached flat against the wall of the main building not to exceed one square foot in area.

B. Church or civic identification signs not to exceed forty-eight (48) square feet in area. ***(Ord. 1407 – Aug. 08 Supp.)***

C. Temporary signs advertising the lease or sale of the premises not to exceed nine (9) square feet in area.

D. Illumination of signs, bulletin boards and nameplates shall not exceed one hundred (100) watts and shall be lighted only with indirect, nonintermittent lighting.

E. Ground signs shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building.

3. R-2 — Single and two-family Residential. Signs permitted are:

A. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area.

B. Church or civic identification signs not to exceed forty-eight (48) square feet in area. ***(Ord. 1407 – Aug. 08 Supp.)***

C. Temporary signs advertising the lease or sale of the premises not to exceed nine (9) feet in area.

D. Illumination of signs, bulletin boards and nameplates shall not exceed one hundred (100) watts and shall be lighted only with indirect, nonintermittent lighting.

E. Ground signs shall be at least twenty (20) feet from the front line or not more than five (5) feet in front of the main building.

4. R-3, R-4, R-5 and R-6 — Mixed Residential, Multiple-family, Planned, and Mobile Home Residential. Signs permitted are:

A. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area.

B. Church, civic or private nonprofit identification signs not to exceed forty-eight (48) square feet in area.

(Ord. 1241 – Feb. 03 Supp.)

C. Temporary signs advertising the lease or sale of the premises not to exceed nine (9) square feet in area.

D. Illumination of signs, bulletin boards and nameplates shall not exceed one hundred (100) watts and shall be lighted only with indirect, nonintermittent lighting.

E. Ground or freestanding signs shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building. Such signs shall be permitted, however, only for the purposes of advertising an apartment complex, which sign shall be

limited to twenty (20) square feet in area. For purposes of this section, and for these purposes only, there must be at least four (4) separate apartments for an apartment complex to exist.

5. ***(Deleted by Ord. 1252 – Aug. 03 Supp.)***

6. C-2 and C-4 — Highway Commercial and Planned Commercial. Signs permitted are:

A. All signs, unless otherwise prohibited, provided that they:

(1) Do not exceed twenty-five (25) feet in height.

(2) Are not within twenty-five (25) feet of an "A" or "R" district.

(3) Are not within twenty-five (25) feet of another sign, except electronic video signs.

(4) Do not exceed one hundred fifty (150) square feet in area, or cover more than fifteen percent (15%) of the building face it covers.

(5) No electronic video signs are permitted in a required front or side yard.

B. Temporary signs advertising the sale or lease of the premises, not exceeding thirty-two (32) square feet in area.

C. All ground signs that are between the height of two (2) feet and ten (10) feet shall be erected no closer than twenty (20) feet from the front property line. The height shall be measured from the center of the street or the ground immediately under the sign, whichever is lower in elevation. All ground signs shall have a maximum area of 100 square feet per side, except for electronic video signs which shall not exceed 3 square feet.

(Ord. 1399 – Feb. 08 Supp.)

D. Prior to erection, relocation or alteration of any roof sign, the Council shall hold a public hearing. Notice thereof shall be at least four (4) days, but no more than twenty (20) days in advance of the hearing by a single publication in a newspaper of general circulation within the City. The following restrictions shall apply:

(1) Roof signs are permitted within C-2 (Highway Commercial) zoning only.

(2) No ground and/or pole sign shall be allowed in conjunction with a roof sign.

(3) The maximum area of any roof sign shall not exceed 48 square feet.

(4) No portion of the entire roof sign shall extend more than six (6) feet above the highest portion of the roof and not more than twenty-five (25) feet above the ground.

(5) Roof signs shall be allowed only on single story structures.

(6) Specific engineering for compliance with building code requirements shall be submitted.

(7) All roof signs must be designed and installed by an approved sign company. Construction details and architectural

renderings for Council consideration must be submitted.

(Ord. 1420 – May 09 Supp.)

7. C-3 — General Retail and Office. Signs permitted are:

A. All signs, unless otherwise prohibited, provided that they:

(1) Do not exceed twenty-five (25) feet in height.

(2) Do not exceed one hundred (100) square feet in area, or cover more than ten percent (10%) of the building face.

B. Temporary signs advertising the sale or lease of the premises, not exceeding thirty-two (32) square feet in area.

C. All ground signs that are between the height of two (2) feet and ten (10) feet shall be erected no closer than twenty (20) feet from the front property line. The height shall be measured from the center of the street or the ground immediately under the sign, whichever is lower in elevation.

D. Wall signs shall not exceed 15% of the building face.

E. Projection signs shall not exceed twenty-four (24) square feet.

(1) Every projection sign, including the frames, braces and supports therefor must be set at right angles to the building front and shall be securely built and designed and may require approval from a structural engineer or registered architect as requested by the Community Development Director.

(2) Projection signs must clear sidewalks by at least ten (10) feet and may project no more than six (6) feet from the building.

(3) Projection signs shall not extend above a point sixteen (16) feet above ground or above the roof line.

(4) All sign illumination shall be interior only, non-flashing and shall conform to the City's electrical code.

(Ord. 1508 – Apr. 13 Supp.)

8. M-1 — Limited Industrial. Signs permitted are:

A. Signs advertising the sale or lease of the premises, not exceeding thirty-two (32) square feet in area.

B. Signs for the business which are located on the site provided that:

(1) Freestanding signs shall not exceed one hundred fifty (150) square feet in area or twenty-five (25) feet in height.

(2) Signs mounted flush on the wall of a building shall not exceed ten percent (10%) of the area of the wall of the building on which they are located or two hundred (200) square feet, whichever is smaller.

(3) Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.

C. All ground signs that are between the height of two (2) feet and ten (10) feet shall be erected no closer than twenty (20) feet from the front property line. The height shall be measured from the center of the street or the ground immediately under the sign, whichever is lower in elevation.

9. M-2 — General Industry. Signs permitted are:

A. Signs advertising the sale or lease of the premises, not exceeding thirty-two (32) square feet in area.

B. Signs for the business which are located on the site provided that:

(1) Freestanding signs shall not exceed one hundred fifty (150) square feet in area or twenty-five (25) feet in height.

(2) Signs mounted flush on the wall of a building shall not exceed ten percent (10%) of the area of the wall of the building on which they are located or two hundred (200) square feet, whichever is smaller.

(3) Not more than one sign of each category above may be provided for any single use, though each sign may be a double-faced or back-to-back sign.

C. All ground signs that are between the height of two (2) feet and ten (10) feet shall be erected no closer than twenty (20) feet from the front property line. The height shall be measured from the center of the street or the ground immediately under the sign, whichever is lower in elevation.

CHAPTER 156

BUILDING CODE

156.01 Adoption of Building Code

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156.04 Referenced Codes - Amendments, Modifications, Additions and Deletions

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156.40 Appendix C, Group U, Agricultural Buildings

156.01 ADOPTION OF BUILDING CODE. The International Building Code 2009 Edition; and the International Residential Building Code 2009 Edition, published by the International Code

Council, Inc., are adopted in full except for such portions as may be hereinafter deleted, modified or amended. An official copy of the International Building Code 2009 Edition, and the International Residential Building Code 2009 Edition, as adopted, and a certified copy of this chapter are on file in the office of the City Clerk.

156.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The International Building Code, 2009 Edition (hereinafter known as the IBC), and the International Residential Code, 2009 Edition (hereinafter known as the IRC), are amended as hereinafter set out in Sections 156.03 through 156.40.

156.03 REFERENCED CODES – DELETIONS. The following are deleted from the IBC and IRC and are of no force or effect in this chapter:

1. IBC - Sections 110.3.7 Energy Efficiency Inspections, Chapter 13 Energy Efficiency.

2. IRC - Sections R112 Board of Appeals, R323 Flood-Resistant Construction, R408.6 Flood Resistance.

156.04 REFERENCED CODES – AMENDMENTS, MODIFICATION, ADDITIONS AND DELETIONS. The remaining sections in this chapter represent amendments to the requirements contained in the IBC and IRC. In the event there are requirements that conflict with these codes the requirements of this chapter shall prevail.

156.05 101.1 & R101.1 – TITLE. Section 101.1, Title, of the IBC and R101.1, Title, of the IRC, are hereby deleted and there is enacted in lieu thereof the following section:

<u>Section 101.1</u> Title. These regulations shall be known as the Building Code of the City of Indianola, hereinafter known as "this code."

<u>Section R 101.1</u> Title. These provisions shall be known as the Residential Code for One- and Two- Family Dwellings of the City of Indianola, and shall be cited as such and will be referred to herein as "this code."

156.06 103.1 & R103.1 - CREATION OF ENFORCEMENT AGENCY. Section 103.1, Creation of enforcement agency, of the IBC and R103.1, Creation of enforcement agency, of the IRC, are hereby amended by adding the following paragraph to said section:

Section 103.1 and R103.1 Building and Zoning Official. *The term Building Official is intended to also mean the Director of Community Development, his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Building Official.*

156.07 103.3 & R103.3 - DEPUTIES. Section 103.3**,** Deputies, of the IBC and R103.3, Deputies, of the IRC, are hereby amended by adding the following paragraph to said section:

Section 103.3 and R103.3 Director of Community Development. *There is also hereby established the position of Director of Community Development, who shall be designated by the City Manager, shall be responsible for the enforcement of the building code, the mechanical code, the plumbing code, the electrical code, and the zoning code of the city. The Director of Community Development shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title.*

156.08 105.2 & R105.2 - WORK EXEMPT FROM PERMIT. Section 105.2, Work exempt from permit, of the IBC and R105.2, Work exempt from permit, of the IRC are hereby amended by deleting the following items and adding a sentence to said sections as follows:

Section 105.2 and R105.2 Work Exempt From Permit

Section 105.2 Building- Item #1 Detached structures not exceeding 150 sq. ft.

Section 105.2 Building- Item #2 Any Fences

Section 105.2 Building- Item #9 Prefabricated swimming pools under 5000 gal.

Section R105.2 Building- Item #1 Detached structures not exceeding 150 sq. ft.

Section R105.2 Building- Item #2 Any Fences

Section R105.2 Building- Item #7 Prefabricated swimming pools under 5000 gal.

Exemption from permit requirements of this chapter shall not preclude requirements for permitting of plumbing, electrical and mechanical installations, systems, and zoning requirement.

156.09 108.2 & R108.2 AMENDED – SCHEDULE OF PERMIT FEES.

Building Permit Fees

Total Valuation	*Fee*
$1.00 to $500.00	*$25.00*
$501.00 to $2,000.00	*$25.00 for the first $500.00 plus $1.50 for each additional $100.00 or fraction thereof, to and including $2,000.00*
$2,001.00 to $25,000.00	*$43.00 for the first $2,000.00 plus $8.50 for each additional $1,000.00 or fraction thereof, to and including $25,000.00*
$25,001.00 to $50,000.00	*$236.00 for the first $25,000.00 plus $7.00 for each additional $1,000.00 or fraction thereof, to and including $50,000.00*

$50,001.00 to $100,000.00 ..... $391.00 for the first $50,000.00 plus $5.50 for each additional $1,000.00 or fraction thereof, to and including $100,000.00

$100,001.00 to $500,000.00 ..... $631.00 for the first $100,000.00 plus $4.50 for each additional $1,000.00 or fraction thereof, to and including $500,000.00

$500,001.00 to $1,000,000.00 ..... $2311.00 for the first $500,000.00 plus $3.50 for each additional $1,000.00 or fraction thereof, to and including $1,000,000.00

$1,000,001.00 and up ..... $3886.00 for the first $1,000,000 plus $2.50 for each additional $1,000.00 or fraction thereof

Other Inspections and Fees

1. *Inspections outside of normal business hours (minimum charge, two hours) ..... $20.00 per hour**
2. *Reinspection fees assessed under provisions of Section 305(g) ..... $20.00 per hour**
3. *Inspections for which no fee is specifically indicated (minimum charge, one-half hour)..... $20.00 per hour**
4. *Additional plan review required by changes, additions or revisions to approved plans (minimum charge, one-half hour)..... $20.00 per hour**

_____

**Or the total hourly cost to the jurisdiction, whichever is greater. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.*

156.10 108.2.1 & R108.2.1 - PLAN REVIEW FEES. Section 108.2. 1, Plan Review Fees, of the IBC, and R108.2.1, Plan Review Fees, of the IRC are hereby established by adding the following section:

Section 108.2.1 and R108.2.1 Plan review fees. Fees for all plan reviews shall be set forth by the Director of Community Development.

156.11 109.3 & R109.3 - BUILDING PERMIT VALUATIONS. Section 109.3, Building permit valuations, of the IBC, and R109.3, Building permit valuations, of the IRC, are hereby amended by deleting said section and inserting in lieu thereof the following:

Section 109.3 and R109.3 Building Permit Valuations. The determination of value or valuations under any of the provisions of this Code shall be made by the Building Official. The value to be used in computing the building permit and building plan review fees if required shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment. Valuations shall be established using square foot values with regional modifiers for the use and construction type most closely resembling those published by the International Code Council. Where no category resembles the proposed construction, a reasonable value will be assigned by the Building Official. The latest published valuations established by the International Code Council are hereby adopted and shall be annually revised to incorporate newly published values. The Building Official shall correct the determination of value of any work for which a permit is issued if such valuation appears to be in error or misstated. If the permit or plan review fees are reduced as a result of such correction, a refund may be issued to the applicant. If such fees are increased, the applicant shall pay all additional fees. Failure to pay such additional fees may result in revocation of any permit issued, or work stoppage as otherwise provided in this code.

156.12 R202 - DEFINITIONS. The following is deleted from Section R202 of the IRC:

"Attic, Habitable".

156.13 R301.2(I) - CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA TABLE. Table R301.2(I), Climatic and Geographic Design Criteria is hereby amended by modifying said table as follows:

Table R301.2(I), Climatic and Geographic Design Criteria

Ground Snow Load	Wind Speed MPH	Seismic Design Category	Subject to Damage From:				Winter Design Temp	Ice Barrier Required	Flood Hazards	Air Freezing Index	Mean Annual Temp
			Weathering	Frost Line Depth	Termite	Decay			NFIP Adoption		
30 PSF	90	A	Severe	42"	Moderate-Heavy	Slight-Moderate	-5° F	Yes	3/2/2009	2000	48° F

156.14 R302.2A - TOWNHOUSES.

Each townhouse that does not have a sprinkler system shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls.

Exception: A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTME 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and underside of the roof sheathing. Electrical installations shall be installed in accordance with the Indianola Electrical Code. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

156.15 R311.7.4.1 - RISERS. Section R311.7.4.1, Risers, of the IRC is hereby amended by deleting said section and inserting in lieu thereof the following:

> *<u>Section R311.7.4.1 Risers.</u> The maximum riser height shall be 7 3/4 inches. The riser height shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch, except at the top or bottom riser of an interior stair where this*

dimension may deviate by a maximum of 3/4 inch. In no case shall the risers exceed the maximum height of 7 3/4 inches.

156.16 R311.7.7.2 - CONTINUITY. Section R311.7.7.2, Continuity, of the IRC, is hereby amended by adding the following:

Section 311.7.7.2, Continuity, exception 3. Handrails within a dwelling unit or serving an individual dwelling unit shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

156.17 R313.1 – TOWNHOUSE AUTOMATIC FIRE SPRINKLER SYSTEMS. Subsection R313.1, Townhouse automatic fire sprinkler system, of the IRC, is hereby amended by deleting said subsection and inserting the following in lieu thereof (Exception remains unchanged):

Subsection R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses containing more than 12 (twelve) dwelling units.

156.18 R313.2 – ONE AND TWO FAMILY AUTOMATIC FIRE SPRINKLER SYSTEMS. Section R313.2, One and Two Family Automatic Fire Sprinkler Systems, of the IRC is hereby amended by adding the following:

Exception #2 – Dwelling units in which the gross square footage of the dwelling spaces, including all floor levels whether finished or unfinished (exclusive of attached garage area), does not exceed 8,000 square feet.

156.19 R315.2 – ALTERATIONS, REPAIRS AND ADDITIONS. Section R315.2 of the IRC, is hereby amended by adding the following:

When alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with carbon monoxide detectors as required for new dwellings.

Exceptions:

#1 Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.

#2 Installation, alteration or repair of plumbing or mechanical systems are exempt from the requirements of this section.

156.20 R403.1.4.1 – (FROST PROTECTION) MINIMUM DEPTH. Section R403.1.4.1 of the IRC, is hereby amended by adding the following exception:

Section R403.1.4.1 (frost protection) Minimum Depth exception #1. Detached garages 720 square feet or less in size and more than 10 feet from a dwelling or attached garage may be provided with a floating slab which shall include a thickened slab edge of a minimum 8 inches thick and tapered or squared from a width of 6 inches to 12 inches and have floors of Portland cement concrete not less than 4 inches thick. Garage areas shall have all sod and/or debris removed and shall be provided with a minimum 3" compacted aggregate backfill prior to installation of said floor. The 2nd method found in R403.1.4.1 Frost Protection and R403.3 Frost Protected Shallow foundations are hereby deleted.

156.21 R405 – DRAINAGE SYSTEM. Section R405, Drainage System, of the IRC, is hereby amended by adding a new section as follows:

In other than Group I soils, a sump shall be provided to drain the porous layer and footings. The sump shall be at least 24 inches (610 mm) in diameter or 20 inches square (0.0129m²), shall extend at least 24 inches (610 mm) below the bottom of the basement floor and shall be capable of positive gravity or mechanical drainage to remove any accumulated water. The drainage system shall discharge into an approved storm sewer system or to daylight.

156.22 RESERVED.

156.23 RESERVED.

156.24 P3101.2.1 - VENTING REQUIRED. Section P3101.2.1, Venting Required, of the IRC is hereby amended by adding the following exception:

Section P3104.2.1 Venting Required exception. A vent is not required on a three inch basement floor drain provided its drain branches into the building drain on the sewer side at a distance of five feet or more from the base of the stack and the branch line to such floor drain is not more than twelve feet in length.

156.25 RESERVED.

156.26 903.2.8 - GROUP R. Section 903.2.8, Group R, of the IBC, is hereby amended by adding the following exception:

> *Section 903.2.8 Group R-1 and R-2 exception. Sprinkling of group R-1 and R-2 residential buildings of not more than 12 (twelve) dwelling units, guest rooms or combination thereof with each unit being provided with a separate means of egress and of not more than 3 (three) stories above grade plane in height, including back-to-back configurations, is not required when said dwelling units and/or guest rooms are constructed in accordance with separation requirements of sections R317.2 and R317.3 of the IRC.*

156.27 1008.1 - DOORS. Section 1008.1, Doors, of the IBC, is hereby amended by adding a new section as follows:

> *Section 1008.1.5.1 Frost Protection. Exterior landings at doors shall be provided with frost protection.*

156.28 RESERVED.

156.29 RESERVED.

156.30 1029.3 – (EMERGENCY ESCAPE AND RESCUE) MAXIMUM HEIGHT FROM FLOOR. Section 1029.3, Maximum Height From Floor, of the IBC is hereby amended by adding the following exception:

> *Section 1029.3 Maximum Height From Floor. Within individual units of Group R-2 and R-3 occupancies where a window is provided as a means of escape and rescue opening from a basement it shall have a sill height of not more than 44 inches above the floor or landing. Where a landing is provided the landing shall be not less than 36 inches wide, not less than 18 inches out from the exterior wall, and not more than 24 inches in height. The landing shall be permanently affixed to the floor below and the wall under the openable area of the window it serves.*

156.31 1029.5.3 - WINDOW WELLS. Section 1029.5.3, Window Wells, of the IBC is hereby amended by adding a new section as follows:

Section 1029.5.3 Window Well Drainage. All window wells shall be provided with approved drainage.

156.32 1203.3 - UNDER FLOOR VENTILATION. Section 1203.3 Under Floor Ventilation, of the IBC is hereby amended by deleting existing exception #6 and inserting in lieu thereof the following:

Section 1203.3.2 Floor Surface Crawl Space and Sub-basements exception #6. All crawl space or subbasement floors shall be entirely covered with a 6-mil vapor barrier (visqueen). Edges and minimum 12" (inch) overlapping seams (as applicable) of said vapor barrier shall be held in place with a minimum of 2" (inches) of clean aggregate or a concrete mixture of a minimum of 1500 - PSI strength capped with a minimum 1 ½ inches of concrete.

156.33 1405.2 - MINIMUM THICKNESS OF WEATHER COVERINGS. Table 1405.2, Minimum Thickness of Weather Coverings, of the IBC is hereby amended by adding the following footnote:

Table 1405.2 Minimum Thickness of Weather Coverings footnote e. Vinyl siding shall be provided with a weather-resistant sheathing paper.

156.34 1405.14 - VINYL SIDING. Section 1405.14, Vinyl Siding, of the IBC is hereby amended by adding a new section as follows:

Section 1405.14.2 Water-Resistive Barrier Required. An approved water-resistive barrier shall be provided under all vinyl siding.

156.35 1608.2 - GROUND SNOW LOADS. Section 1608.2, Ground Snow Loads, of the IBC is hereby amended by deleting said section and inserting in lieu thereof the following:

Section 1608.2 Ground Snow Load. The ground snow load to be used in determining the design snow load for roofs is hereby established at 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in the building code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.

156.36 1612 - FLOOD LOADS. Section 1612, Flood Loads, of the IBC is hereby amended by deleting said section and inserting in lieu thereof the following sections:

<u>Section 1612.1 General Floodplain Construction Standards.</u> The following standards are established for construction occurring within the one-hundred-year flood elevation:

A. All structures shall:

1. Be adequately anchored to prevent collapse or lateral movement of the structure;

2. Be constructed with materials and utility equipment resistant to flood damage; and

3. Be constructed by methods and practices that minimize flood damage.

B. Residential buildings: All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the one-hundred-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the one-hundred-year flood level and extend at such elevation at least eighteen 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 Building Official 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.

C. Nonresidential buildings: All new or substantially improved nonresidential buildings shall have the first floor (including basement) elevated a minimum of one foot above the one-hundred- year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level.

D. 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 one-hundred-year flood; that the structure, below the one-hundred-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 mean sea level) to which any structures are floodproofed shall be maintained by the Building Official.

E. Mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements are that:

1. Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations for mobile homes 50 feet or more in length or one such tie for mobile homes less than 50 feet in length;

2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points for mobile homes 50 feet in length;

3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred pounds; and

4. Any additions to the mobile home be similarly anchored.

F. Mobile homes shall be placed on lots or pads elevated by means of compacted fill so that the lowest floor of the mobile home will be a minimum of one foot above the one hundred-year flood level. In addition, the tie-down specification of Section 156.36 subsection E must be met and adequate surface drainage and access for a hauler must be provided.

G. New mobile homes, expansions to existing mobile homes and mobile home lots where the repair, reconstruction or improvement of the streets, utilities, and pads equals or exceeds fifty percent before the repair, reconstruction or improvement has commenced shall provide:

1. Lots or pads that have been elevated by means of compacted fill so that the lowest floor of mobile homes will be a minimum of one-foot above the one hundred-year flood level;

2. Ground anchors for mobile homes.

H. 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 one-hundred year flood level. Other material and equipment must either be similarly elevated or:

1. Not be subject to major flood damage and be anchored to prevent movement due to flood waters; or

2. Be readily removable from the area within the time available after flood warning.

Section 1612.2 Special floodway standards. The following standards are established for construction occurring within a designated floodway.

A. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

B. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

156.37 1809.5 - FROST PROTECTION. Section 1809.5 is hereby amended by adding the following to said section and by also adding the following exception #2:

Exception #2. Detached garages, accessory to Group R-2 and R-3 occupancies, 750 square feet or less in size and more than 10 feet from a dwelling or attached garage maybe provided with a floating slab which shall include a thickened slab edge of a minimum 8 inches thick and tapered or squared from a width of 6 inches to 12 inches and have floors of Portland cement concrete not less than 4 inches thick. Garage areas shall have all sod and/or debris removed and shall be provided with a minimum 3" compacted aggregate backfill prior to installation of said floor.

156.38 RESERVED

156.39 3401.3 - COMPLIANCE WITH OTHER CODES. Section 3401.3, Compliance With Other Codes, of the IBC is hereby amended by deleting said section and inserting in lieu thereof the following:

Section 3401.3 Compliance With Other Codes. Alterations, repairs, additions and changes of occupancy to existing structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy in the International Fire Code, International Fuel Gas Code, International Plumbing Code, International Property Maintenance Code, International Mechanical Code, ICC Electrical Code and the International Residential Code.

156.40 APPENDIX C, GROUP U, AGRICULTURAL BUILDINGS. The Indianola Building Code shall include the following appendix of the 2009 International Building Code:

Appendix C, Group U, Agricultural Buildings

(Chapter 156 - Ord. 1511 – Apr. 13 Supp.)

[The next page is 887]

CHAPTER 157

ELECTRICAL CODE

157.01 Title

157.02 Electrical Code Adopted

157.03 Applicability

157.04 Permit Required

157.05 Persons Eligible for Permit

157.06 Fees

157.07 Raceways Required

157.08 Peninsular Counter Spaces

157.09 Right of Entry

157.10 Inspections

157.11 Inspection of Damaged Premises

157.12 Suspension or Revocation

157.13 Remedies Available to the City

157.01 TITLE. This chapter shall be known as the "City Electrical Code" and shall be cited as such, and will be referred to in this chapter as "this chapter."

157.02 ELECTRICAL CODE ADOPTED. The 2011 edition of the National Electrical Code, being the standard of the National Fire Protection Association of electric wiring and apparatus, as published by the National Board of Fire Underwriters, is hereby adopted in full except for such portions as may be deleted, modified or amended. An official copy of the National Electrical Code is on file in the office of the Building Official.

(Ord. 1512 – Apr. 13 Supp.)

157.03 APPLICABILITY. All electrical wiring and the installation of any electrical apparatus or appliances shall be in conformity with this chapter except that the electrical code shall not apply to any mobile home within the City. Instead, mobile homes moved into the City shall be required to bear the red seal of approval of the Department of Housing and Urban Development certifying construction in accordance with the Federal Mobile Home Construction And Safety Standards. The electrical code and any other pertinent City ordinances shall, however, be applicable to all buildings and all construction incidental to a mobile home, whether said construction be of an accessory building, an addition to a mobile home, a foundation for a mobile home, utilities or a connection of utility service to a mobile home, or any other type of construction exterior to the mobile home itself.

157.04 PERMIT REQUIRED. Before any person shall proceed to make any electrical repair, extension or other electrical installation, a permit therefor shall be secured from the Building

and Zoning Official. However, simple replacement of fixtures, receptacles, switches and other components similar in size and character shall be exempt.

157.05 PERSONS ELIGIBLE FOR PERMIT. Any permit required by this chapter may be issued to the owner of an existing single-family dwelling, used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters, if the dwelling will be occupied by the owner and if the owner personally purchases all material and performs all labor in connection with the work, to comply with Section 103.22#7 of the State Code.

(Ord. 1446 – May 10 Supp.)

157.06 FEES. The fees for a permit required by this chapter are as follows: There shall be a basic minimum fee of twenty dollars ($20.00) which shall be required for any and all permits required by this chapter. In addition, there shall be additional amounts due for the following work:

Electrical Permit Fees

Description of Work	*Fee*
Meters:	
1 meter	*$8.00*
2 meters	*$11.00*
Each meter in excess of 2	*$3.50 each*
Circuits:	
First 10 circuits (including feeders)	*$3.00 each*
11th through 100th circuits	*$2.00 each*
Each circuit in excess of 100	*$1.50 each*
Openings:	

All switches, outlets, receptacles.....$.50 each

Fixed Appliances.....$3.75 each

(including, but not limited to the following items:)

Range	*Furnace*
Dryer	*Air conditioner*
Dishwasher	*Unit heater*
Disposer	*Electric sign*
Water heater	

Fixed electric baseboard heating equipment.....$0.50 kw

Motors:

Up to one hp:

1 to 10..... $1.00 each

more than 10..... $0.75 each

One hp to 6 hp:

1 through 10..... $1.50 each

more than 10..... $1.00 each

6 hp or over:

1 through 10..... $2.00 each

more than 10..... $1.25 each

(Ord. 1446 – May 10 Supp.)

157.07 RACEWAYS REQUIRED. Any new electrical installations performed within a new or existing structure that is currently zoned C-1 (Shopping Center), C-2 (Highway Commercial), C-3 (General Retail), C-4 (Planned Commercial), M-1 (Limited Industrial) or M-2 (General Industrial) as determined by the official zoning map, shall be placed in an approved raceway, unless otherwise approved by the Building Official.

157.08 PENINSULAR COUNTER SPACES. Subsection 210-52(c)(3) of the National Electrical Code is amended to read as follows:

(3) Peninsular Counter Spaces. At least one receptacle outlet shall be installed at each peninsular counter space with a short dimension of 48 in. (1220mm) or greater. A peninsular countertop is measured from the connecting edge.

157.09 RIGHT OF ENTRY. Subject to constitutional limitations, the Building Official or any authorized agent shall have authority under this chapter to enter any building, public or private, at any reasonable hour of the day for the purpose of ascertaining whether or not installation has been made or wiring or other work has been done in conformance with the provisions of this chapter.

157.10 INSPECTIONS.

1. The Building Official shall, upon notice, forthwith inspect any electrical wiring, installation, extension, appliance or connection and report either approval or disapproval, in writing, to the Clerk. In the event that the Building Official disapproves any piece of work, he or she shall specify the reasons therefor. No electrical wiring shall be energized unless the work passes the inspection, or if energized, it shall not be maintained unless the defects are corrected to the satisfaction of the Building Official.

2. All electrical work which will be concealed when completed shall be inspected before concealment. It is the duty of the contractor or person making the installation to see that all proper inspections are made.

3. Nothing in this section shall be construed to prohibit a temporary hookup of electrical energy for construction or other temporary use, if the temporary hookup meets such standards as the Building Official requires.

157.11 INSPECTION OF DAMAGED PREMISES. Subject to constitutional limitations, the Building Official shall, without notice or application, inspect all buildings damaged by fire, wind, tornado, cyclone or other calamity and prior to any repair or reconstruction shall make a specific inspection as to whether or not there is any exposed wiring resulting therefrom, and shall require that all exposed wiring be properly protected before any repair or improvement is permitted.

157.12 SUSPENSION OR REVOCATION. A permit issued pursuant to this chapter may be suspended or revoked by the Building Official for any violation by the permittee of any of the provisions of this chapter.

157.13 REMEDIES AVAILABLE TO THE CITY. The City shall possess all necessary power to require compliance either by injunction or abatement as a nuisance.

(Chapter 157 - Ord. 1316 – May 05 Supp.)

[The next page is 911]

CHAPTER 158

PLUMBING CODE

158.01 Adoption of Plumbing Code

158.02 Amendments, Modifications, Additions and Deletions

158.03 Reserved

158.04 Referenced Codes - Conflicts

158.05 101.1 – Title

158.06 103.1 – General

158.07 103.3 – Deputies

158.08 106.6 – Fees

158.09 106.6.1 – Work Commencing Before Permit Issuance

158.10 106.6.2 – Schedule of Permit Fees

158.11 106.6.3 – Fee Refunds

158.12 108.4 – Violation Penalties

158.13 Persons Eligible for Permit

158.14 108.5 - Stop Work Order

158.15 405.4.1 – Floor Flanges

158.16 605 - Materials, Joints and Connections

158.17 703 – Building Sewer

158.18 715.1 – Backwater Valves

158.19 901.2.1 – Venting Required

158.20 903 – Vent Stacks and Stack Vents

158.21 904.1 – Roof Extension

158.01 ADOPTION OF PLUMBING CODE. The International Plumbing Code 2009 Edition; published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. An official copy of the International Plumbing Code 2009 Edition, as adopted, and a certified copy of this chapter are on file in the office of the City Clerk.

(Ord. 1513 – Apr. 13 Supp.)

158.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The International Plumbing Code, 2009 Edition (hereinafter known as the IPC), is amended as hereinafter set out in Sections 158.03 through 158.21.

(Ord. 1513 – Apr. 13 Supp.)

158.03 RESERVED. ***(Ord. 1444 – May 10 Supp.)***

158.04 REFERENCED CODES – CONFLICTS. In the event the requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

158.05 101.1 – TITLE. Section 101.1, Title, of the IPC is hereby deleted and there is enacted in lieu thereof the following section:

> *Section 101.1 Title. These regulations shall be known as the Plumbing Code of the City of Indianola, hereinafter known as "this code."*

158.06 103.1 – GENERAL. Section 103.1, General, of the IPC, is hereby amended by adding the following paragraph to said section:

> *Section 103.1 Director of Community Development. The term Building Official is intended to also mean the Director of Community Development and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Building Official.*

(Ord. 1444 – May 10 Supp.)

158.07 103.3 – DEPUTIES. Section 103.3, Deputies, of the IPC is hereby amended by adding the following paragraph to said section:

> *Section 103.3 Director of Community Development. There is also hereby established the position of Director of Community Development, who shall be designated by the City Manager and, shall be responsible for the enforcement of this code. The Director of Community Development shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title.*

(Ord. 1444 – May 10 Supp.)

158.08 106.6 – FEES. Section 106.6, Fees, of the IPC is hereby amended by deleting said section and inserting in lieu thereof the following:

> *Section 106.6 Fees. A permit shall not be issued until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.*

158.09 106.6.1 – WORK COMMENCING BEFORE PERMIT ISSUANCE. Section 106.6.1, Work commencing before permit issuance, of the IPC is hereby amended by deleting said section and inserting in lieu thereof the following:

> *Section 106.6.1 Work commencing before permit issuance. Any person who commences any work on a plumbing system before obtaining the necessary permits*

shall be subject to a fee established by the Building Official that shall be in addition to the required permit fees. The additional fee shall not exceed 100% of the permit fee.

158.10 106.6.2 – SCHEDULE OF PERMIT FEES. Section 106.6.2, Fee schedule, of the IPC is hereby amended by deleting said section and inserting in lieu thereof the following:

Plumbing Permit Fees

Description of Work	*Fee*
Fixtures:	
For first fixture or fixture opening	*$5.50*
For each additional fixture or opening	*$2.50*
Closets	*$3.00*
Urinals	*$3.00*
Laboratories	*$3.00*
Sinks	*$3.00*
Tubs	*$3.00*
Hot water heater	*$3.00*
Floor drains	*$3.00*
Shower drains	*$3.00*
Garage drains	*$3.00*
Refrigerator drains	*$3.00*
Drinking fountains	*$3.00*
Garbage disposal unit	*$3.00*
Automatic washing machine	*$3.00*
Dishwasher	*$3.00*
Garbage disposer	*$3.00*

Ice machine $3.00

Bar (each opening) $3.00

Soda fountain (each opening) $3.00

Air conditioning (waste water opening)..... $3.00

Compressors $3.00

Sump pump $3.00

Other fixtures or work not listed $3.00

Water softener $5.00

Reconstruction (no fixtures) $6.00

Sewage ejector $5.00

Separate water service inspection..... $5.00

Lawn sprinkler system $10.00

Reinspection $15.00

Basic fee, in addition to above fees..... $20.00

Other Inspections and Fees

1. *Inspections outside of normal business hours..... $20.00 per hour**
2. *Reinspection fees ..... $20.00 per hour**
3. *Inspections for which no fee is specifically indicated..... $20.00 per hour**
4. *Additional plan review required by changes, additions or revisions to approved plans (minimum charge, one-half hour) ..... $20.00 per hour**

_____

**Or the total hourly cost to the jurisdiction, whichever is greater. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.*

(Ord. 1444 – May 10 Supp.)

158.11 106.6.3 – FEE REFUNDS. Section 106.6.3, Fee refunds, of the IPC is hereby amended by deleting said section and inserting in lieu thereof the following:

Section 106.6.3 Fee refunds. The Building Official is authorized to establish a refund policy.

158.12 108.4 – VIOLATION PENALTIES. Section 108.4, Violation penalties, of the IPC is hereby amended by deleting said section and inserting in lieu thereof the following:

Section 108.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters or repairs plumbing work in violation of the approved construction documents or directive of the Building Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.

158.13 PERSONS ELIGIBLE FOR PERMIT. A permit required by this chapter shall be issued only to a plumber licensed pursuant to this Code of Ordinances; however, any permit required by this chapter may be issued to the owner of a single- family dwelling, used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters, if the dwelling will be occupied by the owner and if the owner personally purchases all material and performs all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected as on other work. Only a licensed plumber shall be issued a permit to tap a City water or sanitary sewer main.

158.14 108.5 – STOP WORK ORDER. Section 108.5, Stop work order, of the IPC is hereby amended by deleting said section and inserting in lieu thereof the following sections:

Section 108.5 Stop Work Order.

Section 108.5.1 Authority. Whenever the Building Official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

Section 108.5.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists the Building Official shall not be required to give notice prior to stopping the work.

158.15 405.4.1 – FLOOR FLANGES. Section 405.4.1, Floor Flanges, of the IPC is hereby amended by adding the following section:

Section 405.4.1.1 Basement Water Closets. No floor flange shall be required for a basement water closet within a dwelling unit when the floor is of concrete.

158.16 605 – MATERIALS, JOINTS AND CONNECTIONS. Section 605, Materials, joints and connections, of the IPC is hereby amended by adding the following section:

Section 605.1.1 Underground Copper. Copper tube for underground piping shall have a weight of not less than type K.

158.17 703 – BUILDING SEWER. Section 703, Building Sewer, of the IPC, is hereby amended by adding the following section:

Section 703.6 Minimum Building Sewer Size. The minimum diameter for a building sewer shall be four (4) inches.

158.18 715.1 – BACKWATER VALVES. Section 715.1, Sewage Backflow, of the IPC is hereby amended by adding the following:

Section 715.1 Sewage Backflow Exception 1. The requirements of this section shall apply when determined necessary by the Building Official based on local conditions.

158.19 901.2.1 – VENTING REQUIRED. Section 901.2.1, Venting Required, of the IPC is hereby amended by adding the following exception:

> *Section 901.2.1 Venting Required Exception. A vent is not required on a three inch basement floor drain provided its drain branches into the building drain on the sewer side at a distance of five feet or more from the base of the stack and the branch line to such floor drain is not more than twelve feet in length.*

158.20 903 – VENT STACKS AND STACK VENTS. Section 903, Vent Stacks and Stack Vents, of the IPC is hereby amended by adding the following section:

> *Section 903.6 Future Vents. In every basement in which future fixtures are "roughed-in" there shall be not less than one two (2) inch dry vent pipe installed accessible to the basement for future use. The piping shall be identified to indicate that the connection is a future vent.*

158.21 904.1 – ROOF EXTENSION. Section 904.1, Roof Extension, of the IPC is hereby amended by deleting said section and inserting in lieu thereof the following:

> *Section 904.1 Roof Extension. All open vent terminals which extend through a roof shall be terminated not less than 6 inches above the roof nor less than 1 foot from any vertical surface. Where a roof is used for any purpose other than weather protection, the vent extension(s) shall be run at least 7 feet above the roof.*

(Chapter 158 - Ord. 1317 – May 05 Supp.)

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CHAPTER 159

MECHANICAL CODE

159.01 Adoption of Mechanical Code

159.02 Amendments, Modifications, Additions and Deletions

159.03 Deletions

159.04 Referenced Codes – Conflicts

159.05 101.1 – Title

159.06 103.1 – General

159.07 103.3 – Deputies

159.08 106.5 – Fees

159.09 106.5.1 – Work Commencing Before Permit Issuance

159.10 106.5.2 – Schedule of Permit Fees

159.11 Persons Eligible for Permit

159.12 106.5.3 – Fee Refunds

159.13 108.4 – Violation Penalties

159.14 108.5 – Stop Work Order

159.01 ADOPTION OF MECHANICAL CODE. The International Mechanical Code 2009 Edition, published by the International Code Council Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. An official copy of the International Mechanical Code 2009 Edition, as adopted, and a certified copy of this chapter are on file in the office of the City Clerk.

(Ord. 1514 – Apr. 13 Supp.)

159.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The International Mechanical Code, 2009 Edition (hereinafter known as the IMC), is amended as hereinafter set out in Sections 159.03 through 159.14.

(Ord. 1514 – Apr. 13 Supp.)

159.03 DELETIONS. The following are deleted from the IMC and are of no force or effect in this chapter:

1. Section 106.4.6 Retention of construction documents.

2. Section 106.5.3 Refunds.

3. Section 109 Means of Appeal.

159.04 REFERENCED CODES – CONFLICTS. In the event the requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

159.05 101.1 – TITLE. Section 101.1, Title, of the IMC is hereby deleted and there is enacted in lieu thereof the following section:

> *Section 101.1 Title. These regulations shall be known as the Mechanical Code of the City of Indianola, hereinafter known as "this code."*

159.06 103.1 – GENERAL. Section 103.1, General, of the IMC, is hereby amended by adding the following paragraph to said section:

> *Section 103.1 Director of Community Development. The term code official is intended to also mean the Director of Community Development and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the code official.*

(Ord. 1445 – May 10 Supp.)

159.07 103.3 – DEPUTIES. Section 103.3, Deputies, of the IMC is hereby amended by adding the following paragraph to said section:

> *Section 103.3 Director of Community Development. There is also hereby established the position of Director of Community Development, who shall be designated by the City Manager and when so appointed, shall be responsible for the enforcement of this code. The Director of Community Development shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title.*

(Ord. 1445 – May 10 Supp.)

159.08 106.5 – FEES. Section 106.5, Fees, of the IMC is hereby amended by deleting said section and inserting in lieu thereof the following:

> *Section 106.5 Fees. A permit shall not be issued until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.*

159.09 106.5.1 – WORK COMMENCING BEFORE PERMIT ISSUANCE. Section 106.5. 1, Work commencing before permit issuance, of the IMC is hereby amended by deleting said section and inserting in lieu thereof the following:

> *Section 106.5.1 Work commencing before permit issuance. Any person who commences any work on a mechanical system before obtaining the necessary permits shall be subject to a fee established by the Building Official that shall be in addition to the required permit fees. The additional amount shall not exceed 100% of the permit fee*

159.10 106.5.2 – SCHEDULE OF PERMIT FEES. Section 106.5.2, Fee schedule, of the IMC is hereby amended by deleting said section and inserting in lieu thereof the following:

Section 106.5.2 Fee schedule.

Mechanical Permit Fees

(a) Schedule. There shall be paid to the Department of Building and Zoning for the issuance of each mechanical permit the sum of twenty dollars ($20.00) plus the following unit fees:

(1) For the installation or relocation of each forced air or gravity-type furnace or burner, each floor furnace, each suspended heater, recessed wall heater, floor mounted unit heater or other heat producing appliance, including air ducts attached to such appliance	*$5.00 plus $1.50 per 100,000 BTU/H input or fraction thereof*
(2) For the installation, relocation or replacement of each appliance vent or chimney	*$4.00*
(3) For the repair of, alteration of or addition to each heating appliance, refrigeration unit, comfort cooling unit, absorption unit or each comfort heating, cooling, absorption or evaporating cooling system, including installation of controls regulated by this code	*$4.00*
(4) For the installation or relocation of each boiler	*$5.00 plus $1.50 per 100,000 BTU/H input or fraction thereof*
(5) For the installation or relocation of each comfort cooling system or refrigeration unit	*$5.00 plus $1.50 per 100,000 BTU/H input or fraction thereof*

(6) For each air handling unit, including ducts	*$3.00*
(7) For each single duct ventilation fan	*$2.50*
(8) For each evaporative cooler (nonportable), hood (including ducts) or separative ventilation system	*$4.00*
(9) Gas Piping: *First 4 outlets .....* *All outlets over 4 .....*	 *$2.50 each* *$1.50 each*
(10) For each appliance or piece of equipment regulated by this code but not classed in other appliance categories, or for which no other fee is listed in this code	*$4.00*
(11) For each fuel burning fireplace, stove or similar appliance	*$4.50 [See (2) above for chimney fee]*

(b) Double fee. Except in emergency situations, as determined by the Director of Community Development, where work for which a mechanical permit is required by this Code is started or proceeded with by any person prior to obtaining a required permit, the regular fees as specified in this Code for such work shall be doubled, provided such increase shall not exceed one hundred dollars ($100.00). The payment of such double fee shall not relieve any persons from fully complying with the requirements of this Code in the execution of the work or from any other penalties prescribed herein and no additional permits shall be issued to any person who owes the City the double fee described in this section. However, no double fee shall be imposed upon any person who starts work without a permit if:

(1) The work is started on a Saturday, Sunday, or holiday, or during any other day when the Department of Building and Zoning is not normally open for business; and

(2) The person secures the proper permit on the next Department of Building and Zoning working day.

(c) Additional payment. In the event that a mechanical permit is issued for a specific amount of work and upon inspection, it is determined that more work was performed than was authorized on such permit, the permittee shall obtain another permit to include all such additional work and shall pay only one dollar ($1.00) plus the unit fees prescribed in subsection (a) of this section.

(d) Collection of fees. All fees due the City for licenses and permits shall be collected in the Clerk's office.

(e) Refunds. If, within sixty (60) days of the date of issuance, the holder of a mechanical permit decides not to commence the work described in the permit, the person may, upon application to the Department of Building and Zoning, be refunded that portion of the permit fee which is in excess of ten dollars ($10.00). The refund of any fee of ten dollars ($10.00) or less shall not be made.

(Ord. 1445 – May 10 Supp.)

159.11 PERSONS ELIGIBLE FOR PERMIT. A permit required by this chapter shall be issued only to a plumber licensed pursuant to this Code of Ordinances; however, any permit required by this chapter may be issued to the owner of a single- family dwelling, used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters, if the dwelling will be occupied by the owner and if the owner personally purchases all material and performs all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected as on other work. Only a licensed plumber shall be issued a permit to tap a City water or sanitary sewer main.

159.12 106.5.3 – FEE REFUNDS. Section 106.5.3, Fee refunds, of the IMC is hereby amended by deleting said section and inserting in lieu thereof the following:

<u>Section 106.5.3 Fee refunds.</u> The Director of Community Development is authorized to establish a refund policy.

(Ord. 1445 – May 10 Supp.)

159.13 108.4 – VIOLATION PENALTIES. Section 108.4, Violation penalties, of the IMC is hereby amended by deleting said section and inserting in lieu thereof the following:

<u>Section 108.4 Violation penalties.</u> Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters or

repairs mechanical work in violation of the approved construction documents or directive of the code official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.

159.14 108.5 – STOP WORK ORDER. Section 108.5, Stop work order, of the IMC is hereby amended by deleting said section and inserting in lieu thereof the following sections:

Section 108.5.1 Authority. Whenever the code official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the code official is authorized to issue a stop work order.

Section 108.5.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists the code official shall not be required to give notice prior to stopping the work.

(Ord. 1445 – May 10 Supp.)

(Chapter 159 - Ord. 1318 – May 05 Supp.)

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CHAPTER 160

FIRE PREVENTION CODE

160.01 Purpose

160.02 Fire Prevention Code Adopted

160.03 Amendments, Modifications and Deletions

160.04 Applicability to Mobile Homes Limited

160.05 Fires on Public Ways and in Public Places

160.06 Permits

160.07 Enforcement of and Modifications to the Fire Prevention Code

160.08 Appeals from Determinations of Fire Chief

160.09 Penalty for Violation

160.10 Addressable Fire Alarms

160.11 Inspections

160.12 Premises Identification

160.13 Key Vault

160.14 Exceptions for Automatic Sprinkler System

160.01 PURPOSE. The purpose of this chapter is to prescribe regulations governing conditions hazardous to life and property from fire or explosion.

160.02 FIRE PREVENTION CODE ADOPTED. Pursuant to published notice and public hearing as provided by law, there is hereby adopted the 2009 issue of the International Fire Code as published by the International Code Council, and from the effective date of its adopting ordinance the provisions thereof shall be controlling within the limits of the City. An official copy of the fire prevention code adopted and certified copy of its adopting ordinance are on file in the office of the Clerk. The Fire Prevention Code shall include the following appendices of the 2009 International Fire Code:

Appendix B – Fire Flow Requirements for Buildings

Appendix C – Fire Hydrant Location and Distribution

Appendix D – Fire Apparatus Access Road

(Ord. 1515 – Apr. 13 Supp.)

160.03 AMENDMENTS, MODIFICATIONS AND DELETIONS. The following amendments, modifications and deletions to the International Fire Code, 2009 edition, are hereby made:

1. Section 105 of the 2009 International Fire Code requires that a permit be obtained to engage in many activities, operations, practices or functions. The only permits that are required by this Code of Ordinances are listed below:

A. 105.6.30 Operational Permit for Open Burning.

B. 105.6.36 Operational Permit for Pyrotechnic Special Effects.

C. 105.7.5 Construction Permit for Fire Alarm & Detection System and Related Equipment.

D. 105.7.6 Construction Permit for Fire Pump and Related Equipment.

E. 105.7.7 Construction Permit for Flammable and Combustible Liquids.

Permits for the other activities, operations, practices or functions listed in the 2009 International Fire Code are not required.

(Ord. 1515 – Apr. 13 Supp.)

160.04 APPLICABILITY TO MOBILE HOMES LIMITED. The Fire Prevention Code does not apply to any mobile home in the City. Instead, mobile homes in the City shall be required to bear the red seal of approval of the Department of Housing and Urban Development certifying construction in accordance with the Federal mobile home construction safety standards. The Fire Prevention Code is, however, applicable to all buildings and all construction incidental to a mobile home, whether said construction is of an accessory building, an addition to a mobile home, a foundation for a mobile home, utilities or a connection of utility service to a mobile home or any other type of construction exterior to the mobile home itself.

160.05 FIRES ON PUBLIC WAYS AND IN PUBLIC PLACES. No person shall kindle or maintain any bonfire, rubbish or waste material fire within the City except as follows:

1. The Fire Chief may permit open burning supervised by the Public Works Department.

2. The Fire Chief may permit open burning supervised by the Fire Department for training purposes.

3. The Fire Chief may permit open burning at public gatherings under legitimate sponsorship of civic, fraternal, religious, educational or similar organizations only after proper permits have been obtained from the Fire Chief.

4. Open burning in barbecue grills used solely for purposes of preparation of food and commercially manufactured outdoor fireplaces that limit the size of the combustible material to an area 24"x24"x12" and must be completely enclosed or covered with wire mesh with no opening greater than 1"x1". Combustible materials limited to charcoal or wood logs. No brush, leaves, paper or waste materials.

5. The Fire Chief may permit open burning for a land developer to burn trees that have been removed for building construction subject to time of year and location of adjacent structures.

This section is in addition to Section 307 of the 2009 International Fire Code.

(Ord. 1515 – Apr. 13 Supp.)

160.06 PERMITS. Whenever under the terms of the Fire Prevention Code (as amended by Section 160.03 of this chapter) a permit is required, the same shall be issued by the Chief of the Fire Department or a designated assistant. Application for the permit shall be made to the office of the Clerk on such forms as the Clerk and the Chief of the Fire Department may determine necessary and on payment of a permit fee of thirty-five dollars ($35.00), except for permits for

the installation of flammable liquid and/or flammable gas tanks, for which the charge is fifty dollars ($50.00). The permits, except for installation permits, shall extend for one year, at which time they shall be renewed.

(Ord. 1515 – Apr. 13 Supp.)

160.07 ENFORCEMENT OF AND MODIFICATIONS TO THE FIRE PREVENTION CODE. The Fire Prevention Code shall be enforced by the Chief of the Fire Department, and the Chief of the Fire Department shall have the power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee, or any duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, the public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Fire Chief shall be furnished to the applicant, and one (1) signed copy thereof shall be filed in the office of the Clerk.

160.08 APPEALS FROM DETERMINATIONS OF FIRE CHIEF. Whenever the Chief of the Fire Department disapproves an application or refuses to grant a license or permit applied for pursuant to the Fire Prevention Code or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Chief to the Council within thirty (30) days from the date of the decision of the appeal.

160.09 PENALTY FOR VIOLATION. Any person who violates any of the provisions of the Fire Prevention Code or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Council or by a court of competent jurisdiction, within the time fixed therefor, shall severally for each and every such violation and noncompliance, respectively, be subject to the following fines: Thirty (30) days after notice of violations and corrections not addressed a fifty-dollar ($50) fine shall be imposed. Sixty (60) days after notice of violations and corrections not

addressed a one hundred dollar ($100) fine shall be imposed. Every fifteen (15) days after the sixty (60) day notice that the violations are not corrected the fine will double until violations are corrected. In addition, commercial properties obtaining licensure for the sale of alcohol may have license withheld until violations are corrected.

160.10 ADDRESSABLE FIRE ALARMS. Upon new installation and/or system upgrades where there are 10 or more initiating devices within the properties that are required, the installer will install a fire alarm system that shall be addressable to each device and display the individual device location on the fire alarm panel and any annunciator panel within the system.

(Ord. 1449 – May 10 Supp.)

160.11 INSPECTIONS. The Fire Chief or a designee from the department shall conduct inspections for all commercial properties within the City of Indianola. The inspection will be conducted on an annual basis or at the discretion of the Fire Chief.

160.12 PREMISES IDENTIFICATION. Approved numbers or addresses shall be placed on all new and existing commercial buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background and shall have a number or address a minimum of five (5) inches in height.

160.13 KEY VAULT. All new commercial buildings shall install a key vault on the exterior of the building at a location determined by the Fire Chief. The box will be installed at the owner's expense and will only be used as a fire department tool to gain access in an emergency. Existing commercial properties are required to install a key vault system any time improvements are made to the property that require a building permit.

160.14 EXCEPTIONS FOR AUTOMATIC SPRINKLER SYSTEM. Section 903.2.8 Group R is hereby amended by adding the following to said section:

Exceptions for the automatic sprinkler system requirements for Group R occupancies (townhomes and one-two family dwellings) shall be as defined in the building code under sections 156.16 and 156.17.

(Ord. 1515 – Apr. 13 Supp.)

(Chapter 160 - Ord. 1197 – Aug. 01 Supp.)

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CHAPTER 161

FLOOD PLAIN REGULATIONS

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161.01 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.

161.02 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 floodplain 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) is completed before the effective date of the first floodplain 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 161.11(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 floodplain 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 floodplain 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 community's 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 correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. 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 November 20, 1998 of the floodplain management regulations adopted by the community, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 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.

161.03 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 Warren County and Incorporated Areas, City of Indianola, Panel(s) 0164E, 0168E, 0276E, 0277E, 0279E and 0285E, dated March 2, 2009, 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.

161.04 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 Community Development Director 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 Community Development Director in the enforcement or administration of this chapter.

161.05 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.

161.06 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.

161.07 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.

161.08 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.

161.09 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.

161.10 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 161.19. 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.

161.11 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 methods and practices that will minimize flood damage.

C. Use construction materials and utility equipment that are resistant to 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, the Department of Natural Resources shall approve structural flood control works.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

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 161.11(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 161.11(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.

161.12 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 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.

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 161.19. 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 161.10).

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 provisions and standards of the Floodway Fringe (Overlay) District (Section 161.11).

161.13 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.

161.14 ADMINISTRATION. The Community Development Director shall implement and administer the provisions of 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/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

5. Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.

6. Submit to the Federal Insurance 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.

161.15 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.

161.16 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms furnished 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.

161.17 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.

161.18 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.

161.19 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 161.21.

161.20 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 alternative 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.

161.21 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.

161.22 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.

161.23 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.

161.24 VIOLATIONS. Violations of the provisions of this chapter or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Conditional Uses or Variances) shall constitute a violation of this Code of Ordinances. Each day such violation continues shall be considered a separate offense Nothing herein contained prevents the City from taking such other lawful action as is necessary to prevent or remedy violation.

161.25 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. 161 – Ord. 1422 – May 09 Supp.)

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CHAPTER 162

FUEL GAS CODE

162.01 Adoption of Fuel Gas Code

162.02 Amendments, Modifications, Additions and Deletions

162.03 Deletions

162.04 Referenced Codes – Conflicts

162.05 101.1 - Title

162.06 103.1 - General

162.07 103.3 - Deputies

162.08 106.6 - Fees

162.09 106.6.1 – Work Commencing Before Permit Issuance

162.10 106.6.2 – Schedule of Permit Fees

162.11 106.6.3 – Fee Refunds

162.12 108.4 – Violation Penalties

162.13 108.5 – Stop Work Order

162.14 403.10.1 – Metallic Piping Joints and Fittings

162.01 ADOPTION OF FUEL GAS CODE. The International Fuel Gas Code 2009 Edition, published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. An official copy of the International Fuel Gas Code 2009 Edition, as adopted, and a certified copy of this chapter are on file in the office of the City Clerk.

(Ord. 1516 – Apr. 13 Supp.)

162.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The International Fuel Gas Code, 2009 Edition (hereinafter known as the IFGC), is amended as hereinafter set out in Sections 162.03 through 162.14.

(Ord. 1516 – Apr. 13 Supp.)

162.03 DELETIONS. The following are deleted from the IFGC and are of no force or effect in this chapter:

1. Section 106.5.4 Extensions.

2. Section 106.5.6 Retention of construction documents.

3. Section 109 Means of Appeal.

(Ord. 1516 – Apr. 13 Supp.)

162.04 REFERENCED CODES – CONFLICTS. In the event the requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

162.05 101.1 – TITLE. Section 101.1, Title, of the IFGC is hereby deleted and there is enacted in lieu thereof the following section:

> *Section 101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Indianola, hereinafter known as "this code."*

162.06 103.1 – GENERAL. Section 103.1, General, of the IFGC, is hereby amended by adding the following paragraph to said section:

> *Section 103.1 Director of Community Development. The term Building Official is intended to also mean the Director of Community Development and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Building Official.*

162.07 103.3 – DEPUTIES. Section 103.3, Deputies, of the IFGC is hereby amended by adding the following paragraph to said section:

> *Section 103.3 Director of Community Development. There is also hereby established the position of Director of Community Development, who shall be designated by the City Manager and shall be responsible for the enforcement of this code. The Director of Community Development shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title.*

162.08 106.6 – FEES. Section 106.6, Fees, of the IFGC is hereby amended by deleting said section and inserting in lieu thereof the following:

> *Section 106.6 Fees. Permit fees are included in the plumbing or mechanical permit. These permits shall not be issued until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.*

(Ord. 1516 – Apr. 13 Supp.)

162.09 106.6.1 – WORK COMMENCING BEFORE PERMIT ISSUANCE. Section 106.6.1, Work commencing before permit issuance, of the IFGC is hereby amended by deleting said section and inserting in lieu thereof the following:

<u>Section 106.6.1 Work commencing before permit issuance.</u> Any person who commences any work on a fuel gas system before obtaining the necessary permits shall be subject to a fee established by the Building Official that shall be in addition to the required permit fees. The additional amount shall not exceed 100% of the permit fee.

(Ord. 1516 – Apr. 13 Supp.)

162.10 106.6.2 – SCHEDULE OF PERMIT FEES. Section 106.6.2, Fee schedule, of the IFGC is hereby amended by deleting said section and inserting in lieu thereof the following:

<u>Section 106.6.2 Fee schedule.</u> Plumbing or mechanical permits shall not be issued until the fees, as set forth, have been paid to the City. An amended or a supplemental permit for additional construction shall not be issued until the permit fee(s) for the additional work has been paid.

(Ord. 1516 – Apr. 13 Supp.)

162.11 106.6.3 – FEE REFUNDS. Section 106.6.3, Fee refunds, of the IFGC is hereby amended by deleting said section and inserting in lieu thereof the following:

<u>Section 106.6.3 Fee refunds.</u> The Building Official is authorized to establish a refund policy.

(Ord. 1516 – Apr. 13 Supp.)

162.12 108.4 – VIOLATION PENALTIES. Section 108.4, Violation penalties, of the IFGC is hereby amended by deleting said section and inserting in lieu thereof the following:

<u>Section 108.4 Violation penalties.</u> Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters or repairs fuel gas work in violation of the approved construction documents or directive of the Building Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.

162.13 108.5 – STOP WORK ORDER. Section 108.5, Stop work order, of the IFGC is hereby amended by deleting said section and inserting in lieu thereof the following sections:

<u>Section 108.5 Stop Work Order.</u>

<u>Section 108.5.1 Authority.</u> Whenever the Building Official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the code official is authorized to issue a stop work order.

<u>Section 108.5.2 Issuance.</u> The stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists the code official shall not be required to give notice prior to stopping the work.

162.14 403.10.1 – METALLIC PIPING JOINTS AND FITTINGS. Section 403.10.1, Metallic piping joints and fittings, of the IFGC is hereby amended by adding a new section as follows:

<u>Section 403.10.1.1 Welded Pipe Joints.</u> All joints of wrought iron or steel gas piping larger than two-inch (2) standard iron pipe size and providing gas pressure of two (2) PSIG or greater shall be welded steel. All welded joints shall comply with the State of Iowa requirements and work shall be performed by certified welders.

(Chapter 162 - Ord. 1448 – May 10 Supp.)

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CHAPTER 164

SMALL WIND ENERGY CONVERSION SYSTEMS

164.01 Intent

164.02 Definitions

164.03 General Regulations

164.04 Bulk Regulations

164.05 Application Required

164.01 INTENT. The intent of this chapter is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The City finds these regulations are necessary to ensure that Small Wind Energy Conversion Systems are appropriately designed, sited and installed.

164.02 DEFINITIONS.

1. "Height, Total System" means the height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.

2. "Lot" (or Parcel) means any legally established lot or parcel which contains or could contain a permitted or special use as provided by Chapter 165 of this Code.

3. "Off Grid" means an electrical system that is not connected to utility distribution and transmission facilities or to any building or structure that is connected.

4. "Shadow Flicker" means changing light intensity caused by sunlight through the moving blades of a wind energy conversion system.

5. "Small Wind Energy Conversion System (SWECS)" means a wind energy conversion system which has a nameplate rated capacity of up to fifteen (15) kilowatts for residential uses and districts and up to one hundred (100) kilowatts for commercial and industrial districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered a SWECS only if it supplies electrical power solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner

for on site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as amended from time to time.

6. "Small Wind Energy Conversion System, Free Standing" means a SWECS which is elevated by means of a monopole tower only and is not located on another supporting structure except that the tower shall have an appropriately constructed concrete base. Guyed, lattice, or other non-monopole style towers shall not meet this definition.

7. "Small Wind Energy Conversion System, Horizontal Axis" means a small wind energy conversion system that has blades which rotate through a horizontal plane.

8. "Small Wind Energy Conversion System, Building Mounted" means a SWECS which is securely fastened to any portion of a principal building in order to achieve desired elevation, whether attached directly to the principal building or attached to a tower structure which is in turn fastened to the principal building. These systems are prohibited by this chapter.

9. "Small Wind Energy Conversion System, Vertical Axis" means a small wind energy conversion system that has blades which rotate through a vertical plane.

10. "Tower" means the vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

11. "Wind Energy Conversion System (WECS)" means an aggregation of parts including the foundation, base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g., wind charger, windmill or wind turbine.

12. "Wind Turbine Generator" means the component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

164.03 GENERAL REGULATIONS.

1. Special Use. A Small Wind Energy Conversion System (SWECS) shall be allowed only as an accessory use to a permitted principal use or approved permitted special use principal use.

2. Zoning. SWECS may be allowed in C-2 (Highway Commercial), C-4 (Planned Commercial District), M-1 (Limited Industrial), M-2 (General Industrial), A-1 (Agriculture) and all Residential zoning classifications subject to the provisions contained herein and elsewhere within this City Code.

3. Permit Required. It shall be unlawful to construct, erect, install, alter or locate any SWECS within the City, unless a permitted special use permit has been obtained from the Board of Adjustment. The permitted special use permit may be revoked by resolution of the Board of Adjustment any time the approved system does not comply with the rules set forth in this chapter and the conditions imposed by the Board of Adjustment. The owner/operator of the SWECS must also obtain any other permits required by other federal, state and local agencies/departments prior to constructing the system.

4. Number of Systems per Zoning Lot.

A. No more than one (1) freestanding SWECS may be placed on any parcel or lot that is taller than the tallest existing principal building located on said parcel or lot. Additional freestanding SWECS are prohibited.

B. Mixed Use. Any building containing both residential and commercial uses and is zoned commercial shall be considered a commercial use for the purposes of this chapter.

5. Tower. Only monopole towers shall be permitted for freestanding SWECS. Lattice, guyed or towers of any other type shall not be considered to be in compliance with this chapter.

6. Color. Freestanding SWECS shall be a neutral color such as white, sky blue or light gray. Other colors may be allowed at the discretion of the Board of Adjustment. The surface shall be non-reflective.

7. Lighting. No lights shall be installed on the tower, unless required to meet FAA regulations.

8. Signage. No signage or advertising of any kind shall be permitted on the tower or any associated structures.

9. Climbing Apparatus. The tower must be designed to prevent climbing within the first ten feet (10').

10. Maintenance. Facilities shall be well maintained in accordance with manufacturer's specifications and shall remain in an operational condition that poses no potential safety hazard nor is in violation of any provisions contained within this chapter or elsewhere within this City Code.

11. Displacement of Parking Prohibited. The location of the SWECS shall not result in the net loss of required parking as specified elsewhere in the City Zoning Code.

12. Utility Notification. The City shall notify the utility of receipt of an application to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this notification requirement.

13. Interconnection. The SWECS, if not off-grid, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board. No permit of any kind shall be issued until the City has been provided with a copy of an executed interconnection agreement. Off-grid systems shall be exempt from this requirement.

14. Restriction on Use of Electricity Generated. A SWECS shall be used exclusively to supply electrical power to the owner for on site consumption, except that excess electrical power generated by the SWECS and not presently needed for use by the owner may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as may be subsequently amended.

15. Noise. A SWECS shall be designed, installed and operated so that the noise generated does not exceed the maximum noise levels established elsewhere in this City Code.

16. Shadow Flicker. No SWECS shall be installed and operated so to cause a shadow flicker to fall on or in any existing residential structure.

17. Safety Controls. Each SWECS shall be equipped with both an automatic and manual braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, or turbine components. Said automatic braking system shall also be capable of stopping turbine rotation in the event of a power outage so as to prevent back feeding of the grid.

18. Shut Off. A clearly marked and easily accessible shut off for the wind turbine will be required as determined by the Community Development Director.

19. Electromagnetic Interference. All SWECS shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SWECS is causing electromagnetic interference, the owner/operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate City authority. A permit granting a SWECS may be revoked if electromagnetic interference from the SWECS becomes evident.

20. Wind Access Easements. The enactment of this chapter does not constitute the granting of an easement by the City. The SWECS owner/operator shall have the sole responsibility to acquire any covenants, easements, or similar documentation to assure and/or protect access to sufficient wind as may or may not be necessary to operate the SWECS.

21. Engineer Certification. Applications for any SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of all components of the SWECS showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted.

22. Installation. Installation must be done according to manufacturer's recommendations. All wiring and electrical work must be completed according to the applicable building and electric codes. All electrical components must meet code recognized test standards.

23. Removal. If the SWECS remains nonfunctional or inoperative for a continuous period of six (6) months, the system shall be deemed to be abandoned. The SWECS owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, transmission equipment and fencing from the property excluding foundations. Non-function or lack of operation may be proven by reports from the interconnected utility. For off-grid systems the City shall have the right to enter the property at its sole discretion to determine if the off-grid system is generating power. Such generation may be proven by use of an amp meter. The SWECS owner/operator and successors shall make available to the Director of Community Development all reports to and from the purchaser of energy from the SWECS if requested. If removal of towers and appurtenant facilities is required, the Director of Community Development shall notify the SWECS

owner/operator. Removal shall be completed within six (6) months of written notice to remove being provided to the owner/operator by the City.

24. Right Of Entrance. As a condition of approval of a special use permit an applicant seeking to install SWECS shall be required to sign a petition and waiver agreement which shall be recorded and run with the land granting permission to the City to enter the property to remove the SWECS pursuant to the terms of approval and to assure compliance with the other conditions set forth in the permit. Removal shall be at the expense of the owner/operator and the cost may be assessed against the property.

25. Feasibility Study. It is highly recommended that a feasibility study be made of any site prior to installing a wind turbine. The feasibility study should include measuring actual wind speeds at the proposed turbine site for at least three (3) months.

164.04 BULK REGULATIONS.

1. Setbacks. The minimum distance between any freestanding SWECS and any property line shall be a distance that is equivalent to one hundred fifty percent (150%) of the total system height. The setback shall be measured from the property line to the point of the SWECS closest to the property line.

2. Maximum Height. Height shall be measured from the ground to the top of the tower, including the wind turbine generator and blades.

A. For lots of more than one (1) and fewer than three (3) acres, the maximum height shall be 65 feet.

B. For lots of more than three (3) and fewer than five (5) acres, the maximum height shall be 80 feet.

C. For lots more than five (5) acres, the maximum height shall be 100 feet.

3. Minimum Lot Size.

A. The minimum lot size for a freestanding SWECS within C-1, C-2, C-4, M-1 and M-2 shall be one (1) acre.

B. The minimum lot size for a freestanding SWECS within A-1 and all residential zoning classifications shall be three (3) acres.

4. Clearance of Blade. No portion of a horizontal axis SWECS blade shall extend within thirty (30) feet of the ground. No portion of a vertical axis SWECS shall extend within ten (10) feet of the ground. No blades may extend over parking areas, driveways or sidewalks. No blade may extend within twenty (20) feet of the nearest tree, structure or above ground utility facilities.

5. Location.

A. No part of a SWECS shall be located within or over drainage, utility or other established easements.

B. A SWECS shall be located entirely in the rear yard.

C. A SWECS shall be located in compliance with the guidelines of applicable Federal Aviation Administration (FAA) regulations as amended from time to time.

D. No SWECS shall be constructed so that any part thereof can extend within twenty (20) feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five (5) feet.

E. Building mounted SWECS shall be prohibited.

164.05 APPLICATION REQUIRED. Application for SWECS shall be made on forms provided by the City. No action may be taken regarding requests for SWECS until completed applications have been filed and fees paid.

(Ch. 164 – Ord. 1466 – May 11 Supp.)

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CHAPTER 165

ZONING REGULATIONS

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165.07 Changes In Official Zoning Map

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165.35 Powers and Duties of the Board of Adjustment

165.36 Decisions of the Board of Adjustment

165.37 Appeals from the Board of Adjustment

165.38 Changes and Amendments

165.39 Application for Change of Zoning District Boundaries

165.01 TITLE. The ordinance codified in this chapter is entitled "AN ORDINANCE to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence and other purposes; to regulate and restrict the height of buildings and structures, the number and size of buildings and other structures; to establish the size of yards, courts, and other open spaces; to establish minimum lot areas; and regulate the density of population and the percentage of lot that may be occupied; to require off-street parking; to regulate the location, size and number of signs, to divide the City into districts for such

purposes; to provide for the administration and enforcement of its provisions; to create a Board of Adjustment; to prescribe penalties for the violation of its provisions, all in accordance with Chapter 414, Code of Iowa," and may be known and cited as "The Zoning Ordinance of the City of Indianola, Iowa."

165.02 PURPOSE. The purpose of this chapter is to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the City, all in accordance with a comprehensive plan.

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

1. "Accessory use or building" means a use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land. However, for purposes of this chapter, an enclosed trailer, part of an enclosed trailer, an enclosed storage cubicle or a railcar shall not be used as an accessory use or building to a principal structure, unless (i) the enclosed trailer, part of an enclosed trailer, an enclosed storage cubicle or a railcar is used in conjunction with construction work and is promptly removed upon completion of the construction work, (ii) the enclosed trailer, part of an enclosed trailer, an enclosed storage cubicle or a railcar is on the premises to be unloaded and is, in fact, unloaded and removed within thirty days, or (iii) the enclosed trailer, part of an enclosed trailer or an enclosed storage cubicle is licensed, road worthy and moved from the premises for at least ten consecutive days during every six-month period. For purposes of this chapter, an enclosed trailer is a 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, enclosed to provide protection from the weather and having an overall area of more than one hundred twenty (120) square feet.

2. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three (3) or more such rooms or suites.

3. "Apartment house" means a building arranged, intended, or designed to be occupied by three (3) or more families living independently of each other.

4. "Alterations, structural" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.

5. "Basement" means a story having part but not more than one-half (½) its height below grade. A basement is counted as a story for the purpose of height regulation.

6. "Boardinghouse/bed and breakfast" means a building other than a hotel where, for compensation and by arrangement, meals and lodging are provided for two (2) or fewer family(ies) that are overnight guests and where no food is served to the general public.

7. "Building (structure)" means anything constructed, erected, or built, the use of which requires more or less permanent location on the ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including but without limiting the generality of the foregoing, installations such as signs, billboards, radio towers, and other facilities not designed for storage of property or occupancy by persons.

8. "Building, height of" means the vertical distance from the grade 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.

9. "Commission" means the planning and zoning commission of Indianola, Iowa.

10. "Cellar" means a story having more than one-half (½) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

11. "Dwelling" means any building or portion thereof which is designed for and used exclusively for residential purposes.

12. "Dwelling, single-family" means a building designed for or occupied by one (1) family.

13. "Dwelling, two-family" means a building designed for or occupied exclusively by two (2) families. This definition includes condominiums or individual dwelling units within the structure which may be sold or transferred individually as well as rented or leased.

14. "Dwelling, multiple" means a building designated or occupied exclusively by more than two (2) families. This definition includes condominiums or individual dwelling units within the structure which may be sold or transferred individually as well as rented or leased.

15. "Elderly dwelling unit" means a dwelling unit with one (1) or more permanent residents sixty-two (62) years of age or older.

16. "Family" means one (1) or more persons each related to the other by blood, marriage, adoption, legal guardianship or as foster parent-children who are living together in a single dwelling and maintaining a common household. Not more that four persons not so related, living together on the premises, as a common household may constitute a "family".

(Ord. 1361 – Aug. 06 Supp.)

17. "Farm" means an area which is used for the growing of the usual farm products, such as vegetables, fruits, and grains, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the product; provided, however, the operation of any such accessory uses shall be secondary to that of the normal farming activities, and such accessory uses do not include the feeding of garbage or offal to swine or other animals or commercial feeding of animals or poultry in confined lots or buildings.

18. "Frontage" means all the property on one side of a street between two (2) intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

19. "Garage, private" means an accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than two-ton capacity.

20. "Garage, public" means a building, or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling. or storing motor-driven vehicles.

21. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

22. "Handicapped dwelling unit" means a dwelling unit with one (1) or more permanent residents who have impairments that, for all practical purposes, confine those persons to a wheelchair, or who have impairments that cause those persons to walk with difficulty or insecurity, including, but not limited to, persons using braces or crutches, amputees, arthritics, spastics and any person with a pulmonary or cardiac problem who is semi-ambulatory.

23. "Home occupation" means an occupation or a profession which: (i) is carried on in a dwelling unit or in an accessory building on the same lot; (ii) is carried on by a member of the family residing in the dwelling unit, employing no person outside of the immediate family residing on the premises; and (iii) is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and (iv) for which there is kept no stock in trade, nor is any commodity sold on the premises; (v) has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building; (vi) does not occupy more than ten percent (10%) of the area of the total floor area of the dwelling unit; (vii) has not more than one exterior sign mounted flush with the face of the building, which sign shall not exceed one square foot in area; and (viii) produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood and causes no electrical interference with radio and television reception in the neighborhood.

24. "Institution" means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.

25. "Junkyard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, stored, abandoned or handled, including the dismantling or "wrecking" of automobiles or other vehicles or machinery, house-wrecking yards, used lumberyards and places or yards for storage of salvage house-wrecking and structural steel materials and equipment; but not including the areas where such uses are conducted entirely within a completely enclosed building.

26. "Kennel" means an establishment where dogs are boarded for compensation or where dogs are bred or raised for commercial purposes or sale.

27. "Loading space" means a space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having minimum

dimension of twelve (12) by thirty-five (35) feet and vertical clearance of at least fourteen (14) feet.

28. "Lot" means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street, except that a townhome lot need not have its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.

(Ord. 1415 – Aug. 08 Supp.)

29. "Lot, corner" means a lot abutting upon two (2) or more streets at their intersections.

30. "Lot, depth of" means the mean horizontal distance between the front and rear lot lines.

31. "Lot, double frontage" means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

32. "Lot, interior" means a lot other than a corner lot.

33. "Lot of record" means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Warren County, Iowa.

34. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

35. "Lot, reverse corner" means a corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.

36. "Mobile home" means a vehicle used, or so originally constructed as to permit being used, as conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, dwellings, or sleeping places for one or more persons, provided further that this definition refers to and includes all portable contrivances used or intended to be used generally for living and sleeping quarters and which are capable of being moved by their own power, towed, or transported by another vehicle. This definition also includes and applies to such vehicles or structures that are located on a permanent or temporary foundation but does not include mobile homes converted to real estate as defined herein.

37. "Mobile home converted to real estate" means an unencumbered mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the assessor, the mobile home title, registration, and license plates collected from the owner and the property entered on the tax rolls of Warren County.

38. "Mobile home park" means any site, lot, field, or tract of land upon which two (2) or more occupied mobile homes are harbored either free of charge or for revenue purposes and includes any building, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

39. "Mobile home subdivision" means a subdivision created for the purpose of, and restricted to the sale or lease of individual lots for occupancy by independent mobile homes or mobile homes converted to real estate and having public streets, utilities and other public facilities installations approved by the Council in accordance with the subdivision regulations of the City.

40. "Nursing home" means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, or shelter and care, for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

41. "Parking space" means a surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than one hundred eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress for automobiles.

42. "Place" means an open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.

43. "Satellite receiving antenna" means 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 extraterrestrial sources whether affixed to the ground as a permanent structure or a mobile unit such as a trailer or vehicle.

44. "Sign" means any structure or part thereof or device attached thereto or painted or represented thereon which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" includes the word "billboard" but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

45. "Story" means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

46. "Story, half" means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

47. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

48. "Structure (building)" means anything constructed, erected, or built, the use of which requires more or less permanent location on the ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, including but without limiting the generality of the foregoing, installations such as signs, billboards, radio towers, and other facilities not designed for storage of property or occupancy by persons.

49. "Travel trailer" or "camping trailer" means a 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 as to permit the vehicles to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight (8) feet in width and any length provided its gross weight does not exceed 4,500 pounds, which shall be the manufacturer's shipping or the actual weight provided its overall length does not exceed 28 feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes; if used as a place of human habitation for more than 90 days in any 12 month period, it shall be classed as a mobile home, regardless of the size and weight limitation provided herein. This definition also includes house cars and camp cars having motive power and designed for temporary occupancy as defined herein.

50. "Trailer camp" or "tourist camp" means an area providing spaces for two (2) or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.

51. "Yard" means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward, except an overhang not to exceed three (3) feet plus an attached gutter, and except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used.

52. "Yard, front" means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, permitted overhangs, or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where owner shall elect to front the building on the street parallel to the lot line having the greater dimension.

53. "Yard, rear" means a yard extending across the rear or a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies, permitted overhang or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard, except that on corner lots the rear and side yard may be interchanged.

54. "Yard, side" means a yard between the main building and the sideline of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereto excluding any permitted overhang.

165.04 ESTABLISHMENT OF DISTRICTS. The City is hereby divided into districts which are designated as follows:

A-1 Agricultural

R-1 Single-Family Residential

R-2 Single- and Two-Family Residential

R-3 Mixed Residential

R-4 Multiple-Family [Residential]

R-5 Planned Residential

R-6 Mobile Home Residential

C-1 Office Park Commercial District

C-2 Highway Commercial

C-3 General Retail and Office

C-4 Planned Commercial District

M-1 Limited Industrial

M-2 General Industrial

The locations and boundaries of these districts are shown on the official zoning map.

(Ord. 1492 – May 12 Supp.)

165.05 ADOPTION OF OFFICIAL ZONING MAP. The official zoning map, and the explanatory material thereon, is hereby adopted by reference and declared to be a part of this chapter.

165.06 IDENTIFICATION OF OFFICIAL ZONING MAP. The official zoning map shall be identified by the signature of the Mayor and attested to by the Clerk under the following statement:

> *This is to certify that this is the official zoning map referred to in Chapter 1, Section 1.2, of the Zoning Ordinance of Indianola, Iowa, as adopted the [1st] day of [December], 19[69] A.D."*

The official zoning map shall be on file in the office of the Clerk and shall be the final authority as to the current zoning status of land, buildings and other structures in the City.[†]

[†] (See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)

165.07 CHANGES IN OFFICIAL ZONING MAP. No changes in the official zoning map shall be made except as may be required by amendments to this chapter under Section 165.38 herein. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, approving such change in the official zoning map. Any unauthorized change of any kind whatsoever in the official zoning map by any person or persons shall constitute a violation of this chapter and be punishable as provided in Section 165.23 of this chapter.

165.08 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following township lines or section lines shall be construed as following township lines or section lines.

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

5. Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams or other bodies of water shall be construed to follow such centerlines.

6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

7. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

165.09 SCHEDULES OF DISTRICT REGULATIONS. The following schedules of district regulations are hereby adopted and declared to be a part of this ordinance:

A-1 Agricultural

R-1 Single-Family Residential

R-2 Single- and Two-Family Residential

R-3 Mixed Residential

R-4 Multiple-Family [Residential]

R-5 Planned Residential

R-6 Mobile Home Residential

C-1 Office Park Commercial District

C-2 Highway Commercial

C-3 General Retail and Office

C-4 Planned Commercial District

M-1 Limited Industrial

M-2 General Industrial

(Ord. 1492 – May 12 Supp.)

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A-1	AGRICULTURAL	A-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Agriculture, horticulture, dairy farming, livestock farming, poultry farming, general farming and other agricultural activities	None
2. Single-family dwellings	2 spaces per unit
3. Parks, playgrounds or play fields	5 spaces for each acre developed for active usage
4. Fairgrounds	10 spaces per acre developed for active usage
5. Cemetery or mausoleum	10 spaces plus 1 per acre
6. Elementary or secondary school	1 space per classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
7. Churches and temples	1 space for every 4 seats in the main auditorium
8. Golf courses and country clubs except miniature courses or driving ranges operated for a profit	3 spaces per green or 1 space for every 100 square feet of floor area
9. Community meeting or recreation building	1 space for every 150 square feet of floor area
10. Railroads, public utilities and communications towers	1 space per employee plus 1 space per vehicle used by the facility
11. Bed and Breakfast	1 space for every 2 beds with all spaces on site or on a lot adjacent to the site or directly across the street or alley from the site ***(Ord. 1194 – Aug. 01 Supp.)***
12. The above permitted principal uses and structures are allowed on existing approved subdivision lots regardless of lot width and area	Same as above ***(Ord. 1431 – Sep. 09 Supp.)***
13. Additions and general improvements to existing permitted principal uses and structures prior to the effective date of Ordinance No. 1431	Same as above ***(Ord. 1431 – Sep. 09 Supp.)***
PERMITTED ACCESSORY USES AND STRUCTURES	

1. Farm buildings incidental to agricultural uses.

2. Private garages.

3. Private swimming pools.

4. Private greenhouses not operated for commercial purposes.

5. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.

6. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon the completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Sanitary landfill or waste disposal area, provided it is not used for disposal of dead animals, that refuse shall be covered with dirt daily if it contains raw garbage, that a nuisance due to smoke, odor or blowing of trash and debris shall not be created, and that the site shall be restored to a condition compatible with the adjacent area upon conclusion of the dump operation. An access road having at least a graveled surface and five (5) parking spaces shall be provided. No landfill or waste disposal area shall be located closer than one-fourth (¼) mile to any dwelling, park, school or place of public assembly.

2. Quarry, sand or gravel pit.

A-1	AGRICULTURAL	A-1
MINIMUM LOT AREA AND WIDTH	**MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS**	**MAXIMUM HEIGHT**
Area:.....15 acres Width: .....300 feet ***(Ord. 1431 – Sep. 09 Supp.)*** _____ **MINIMUM FLOOR AREA** Dwellings: 1 story .....720 square feet 1½ stories .....840 square feet 2 stories.....960 square feet	Dwellings and other non-institutional uses: Front: ..... 40 feet Rear: ..... 30 feet Side: ..... 10 feet Side street, corner lot ..... 30 feet Schools, Churches or Other Public or Institutional Buildings: Front: ..... 50 feet Rear: ..... 40 feet Side: ..... 40 feet Side street, corner lot ..... 40 feet	2 1/2 stories or 35 feet
SPECIAL REQUIREMENTS		

1. Poultry, livestock or fur-bearing animals shall be kept a minimum distance of 300 feet from the nearest residential development. This does not apply to the usual keeping of household pets not for commercial use.

2. No building permit shall be issued for a dwelling unit in the agricultural district for any parcel of land that is designated for commercial or industrial uses on the Future Land Use Plan of the City of Indianola.

3. No building permit shall be issued for a communications tower in the agricultural district until 10 days' written notice is given to all property owners in the fall area of the tower.

4. If the Building Official does not approve an application for a building permit as presented and the applicant is unable or unwilling to meet the requirements of the A-1 (Agricultural) zoning classification relative to minimum lot area and width, the applicant shall have the option of submitting the application to the Planning and Zoning Commission and Council for their review. The Commission and Council shall give consideration to the following before making their respective recommendation and decision: topography, drainage, master street plan of the comprehensive plan, future land use plan, adjoining properties, proper planning for the extension of streets, public sewer, public water and public electric.

(Ord. 1431 – Sep. 09 Supp.)

R-1	SINGLE-FAMILY RESIDENTIAL	R-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Parks, playgrounds or play fields	5 spaces for each acre developed for active usage
3. Community meeting or recreation building	1 space for every 150 square feet of floor area
4. Elementary or secondary school	1 space per classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
5. Churches and temples	1 space for every 4 seats in the main auditorium
6. Two-unit dwelling for members of the same family subject to the special requirements listed below	2 spaces per unit

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Hospitals; sanitariums; rest, nursing and convalescent homes; homes for orphans and aged on sites of one (1) acre or more: off-street parking and yards comparable for other institutional uses of this ordinance to be provided.

2. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.

3. Railroads and public utilities but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee on the site be provided.

4. Bed and Breakfast, provided that (a) if the use ceases for more than six months or the titleholders of the property changes, the use shall revert back to a permitted principal use; (b) occupancy is limited to four guests units (e.g. families, couples or individuals); (c) required off-street parking shall be one space for each guest unit and two spaces for the resident; (d) signage is limited to a maximum of three square feet mounted flush to the building; (e) require 10 day written notification to property owners within 200' of the proposed location before Board of Adjustment hearing; (f) no meals served to people other than overnight guests; and (g) the entire property to be located within 600 feet of the Simpson College Campus bounded by Clinton Avenue, E Street, Girard Avenue and Buxton Street. ***(Ord. 1292 – Aug. 04 Supp.)***

SPECIAL REQUIREMENTS FOR TWO-UNIT DWELLING FOR MEMBERS OF THE SAME FAMILY

1. All permanent occupants of the two-unit dwelling must be related by blood, marriage or law.
2. The smallest unit of the two-unit dwelling shall not have a floor area that exceeds six hundred (600) square feet.
3. All additions and remodeling shall comply with current building code requirements for two-family dwellings and an occupancy permit will be required.

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Private swimming pools.
3. Private greenhouses not operated for commercial purposes.
4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, and located on the same lot or a contiguous lot under the same ownership.
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Off-street parking subject to the special requirements listed below.

R-1	SINGLE-FAMILY RESIDENTIAL	R-1
MINIMUM LOT AREA, WIDTH AND DEPTH	**MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS**	**MAXIMUM HEIGHT**
Area: ..... 8,400 square feet Width: ..... 70 feet Where a lot is not served by a public and/or sanitary sewer system, the minimum lot area shall be not less than twenty thousand (20,000) square feet and the width not less than one hundred twenty-five (125) feet. _____ **MINIMUM FLOOR AREA** 1 story .....720 square feet 1½ stories .....840 square feet 2 stories.....960 square feet	Dwellings and other non-institutional uses: Front: ..... 30 feet Rear: ..... 35 feet Side: one story ..... 10 feet two or more stories..... 10 feet Side street, corner lot ..... 25 feet ***(Ord. 1255 – Aug. 03 Supp.)*** Schools, Churches or Other Public or Institutional Buildings: Front: ..... 40 feet Rear: ..... 40 feet Side: ..... 20 feet Side street, corner lot ..... 30 feet	2 1/2 stories or 35 feet _____ **MINIMUM WIDTH** All permitted dwellings: 20 feet For the purpose of determining the minimum width of a dwelling unit, the shortest dimension of the dwelling unit shall be used, excluding nonhabitable spaces.
SPECIAL REQUIREMENTS FOR OFF-STREET PARKING AS A PERMITTED ACCESSORY USE OR STRUCTURE		

1. Before any improvements are made a building permit is required and all improvements shall comply with Chapter 166, Site Plan Review, of this Code of Ordinances.

2. All off-street parking must lie adjacent to a C-2 (Highway Commercial) zoning classification and be located within 300 feet of the right-of-way lines of U.S. Highways 65-69 (Jefferson Street) or Iowa Highway 92 (Second Avenue).

3. A public sidewalk shall be installed along the entire side or sides of the property that abut all public streets or highways.

4. A six foot high double-face opaque wooden fence or a six foot high masonry wall with face brick, stucco or a similar finished surface shall be constructed toward the remaining R-1, R-2 or R-3 zoning classifications.

5. All vehicle traffic shall enter and exit the off-street parking directly onto U.S. Highways 65-69 (Jefferson Street) and Iowa Highway 92 (Second Avenue).

6. Procedure:

A. Twelve (12) copies of the site plan must be submitted at least twenty (20) days prior to the next regularly scheduled Planning and Zoning Commission meeting.

B. Names and addresses of property owners within two hundred (200) feet of the site plan must be shown on the site plan.

C. Letters of notification must be sent to property owners within two hundred (200) feet of the site plan at least 15 days prior to the next regularly scheduled Planning and Zoning meeting.

D. All required information as listed under Section 166.06 of this Code of Ordinances must be shown on the site plan.

E. Within forty-five (45) days after receiving the application for site plan review, the Commission shall recommend to the Council to either approve, approve subject to conditions, or disapprove the site plan.

F. Within thirty (30) days after receiving the recommendation from the Commission, the Council shall hold a public hearing and first consideration of the proposed site plan. The proposed site plan must be considered and voted on for passage at two (2) Council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the Council members. If the proposed site plan fails to receive sufficient votes for passage at any consideration, the proposed site plan shall be considered defeated.

R-2	SINGLE- AND TWO-FAMILY RESIDENTIAL	R-2

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Two-family dwelling	2 spaces per unit
3. Community meeting or recreation building	1 space for every 150 square feet of floor area
4. Parks, playgrounds or play fields	5 spaces for each acre developed for active usage
5. Elementary or secondary school or college	1 space per classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
6. Private kindergartens and day nurseries	1 space plus 1 space per employee
7. Churches and temples	1 space for every 4 seats in the main auditorium

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Hospitals; sanitariums; rest, nursing and convalescent homes; homes for orphans and aged on sites of one (1) acre or more: off-street parking and yards comparable for other institutional uses of this ordinance to be provided.

2. Railroads and public utilities but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee on the site be provided.

3. Multiple-family dwellings having not more than 12 units provided that such use will be in character with existing land uses in the area, and that a minimum lot area of 6,000 square feet for the first unit and 1,500 square feet for each additional unit be provided and that the height not exceed 3 stories or 40 feet; that a minimum floor area of 380 square feet be provided for each dwelling unit; that 2 off-street parking spaces per unit be provided; and that the minimum required front, rear, and side yards be not less than:

Front yard..... 30 feet

Rear yard..... 30 feet

Side yard..... 15 feet

Street side, corner lot..... 25 feet

MINIMUM LOT AREA, WIDTH AND DEPTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
Single-family Dwelling: Area: ..... 7,200 square feet Width: ..... 60 feet Two-family Dwelling: Area: ..... 8,400 square feet Width: ..... 70 feet _____ **MINIMUM FLOOR AREA** 1 story .....660 square feet 1½ stories .....780 square feet 2 stories .....900 square feet 2-family .....600 square feet per unit	Dwellings and other non-institutional uses: Front: ..... 25 feet Rear: ..... 30 feet Side: ..... 10 feet Side street, corner lot ..... 20 feet Schools, Churches or Other Public or Institutional Buildings: Front: ..... 35 feet Rear: ..... 35 feet Side: ..... 15 feet Side street, corner lot ..... 30 feet	2 1/2 stories or 35 feet _____ **MINIMUM WIDTH** All permitted dwellings: 20 feet For the purpose of determining the minimum width of a dwelling unit, the shortest dimension of the dwelling unit shall be used, excluding nonhabitable spaces.

R-2	SINGLE- AND TWO-FAMILY RESIDENTIAL	R-2
	PERMITTED ACCESSORY USES AND STRUCTURES	
1. Private garage. 2. Private swimming pools. 3. Private greenhouses not operated for commercial purposes. 4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership. 5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work. 6. Off-street parking subject to the special requirements listed below.		
	SPECIAL REQUIREMENTS FOR OFF-STREET PARKING AS A PERMITTED ACCESSORY USE OR STRUCTURE	

1. Before any improvements are made a building permit is required and all improvements shall comply with Chapter 166, Site Plan Review, of this Code of Ordinances.

2. All off-street parking must lie adjacent to a C-2 (Highway Commercial) zoning classification and be located within 300 feet of the right-of-way lines of U.S. Highways 65-69 (Jefferson Street) or Iowa Highway 92 (Second Avenue).

3. A public sidewalk shall be installed along the entire side or sides of the property that abut all public streets or highways.

4. A six foot high double-face opaque wooden fence or a six foot high masonry wall with face brick, stucco or a similar finished surface shall be constructed toward the remaining R-1, R-2 or R-3 zoning classifications.

5. All vehicle traffic shall enter and exit the off-street parking directly onto U.S. Highways 65-69 (Jefferson Street) and Iowa Highway 92 (Second Avenue).

6. Procedure:

A. Twelve (12) copies of the site plan must be submitted at least twenty (20) days prior to the next regularly scheduled Planning and Zoning Commission meeting.

B. Names and addresses of property owners within two hundred (200) feet of the site plan must be shown on the site plan.

C. Letters of notification must be sent to property owners within two hundred (200) feet of the site plan at least 15 days prior to the next regularly scheduled Planning and Zoning meeting.

D. All required information as listed under Section 166.06 of this Code of Ordinances must be shown on the site plan.

E. Within forty-five (45) days after receiving the application for site plan review, the Commission shall recommend to the Council to either approve, approve subject to conditions, or disapprove the site plan.

F. Within thirty (30) days after receiving the recommendation from the Commission, the Council shall hold a public hearing and first consideration of the proposed site plan. The proposed site plan must be considered and voted on for passage at two (2) Council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the Council members. If the proposed site plan fails to receive sufficient votes for passage at any consideration, the proposed site plan shall be considered defeated.

R-3 MIXED RESIDENTIAL R-3	
PERMITTED PRINCIPAL USES AND STRUCTURES	**MINIMUM REQUIRED OFF-STREET PARKING**
1. Single-family dwellings	2 spaces per unit
2. Mobile homes converted to real estate	2 spaces per unit
3. Two-family dwelling	2 spaces per unit
4. Multiple-family dwellings	2 spaces per unit
5. Elderly and persons with disabilities	1 space per unit
6. Boardinghouse/bed and breakfast	1 space for every 2 beds with all spaces on site or on a lot adjacent to the site or directly across the street or alley from the site
7. Fraternity and sorority houses	1 space for every 2 beds with all spaces on site or on a lot adjacent to the site or directly across the street or alley from the site
8. College dormitory	1 space for every 2 beds ***(Ord. 1275 – May 04 Supp.)***
9. Nursing, rest and convalescent homes	1 space for every 6 beds
10. Hospitals and sanitariums, homes for orphans and aged on sites of one acre or more	1 space for every 6 beds
11. Funeral parlors	1 space for every 4 seats in the main auditorium
12. Churches and temples	1 space for every 4 seats in the main auditorium
13. Elementary or secondary school or college	1 space per classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
14. Private kindergartens and day nurseries	1 space plus 1 space per employee
15. Parks, playgrounds or play fields	5 spaces for each acre developed for active usage
16. Community meeting or recreation building	1 space per 150 square feet of floor area
17. Public library	1 space per 150 square feet of floor area
18. Residential care facility for not more than ten (10) developmentally disabled persons and any necessary support personnel	1/2 space per developmentally disabled person

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Mobile home park provided that the installation complies with Chapter 135D of the Code of Iowa as amended; has a water supply and sanitary sewage collection and treatment system approved by the State Board of Health; has a minimum area of 3,500 square feet for each mobile home space; has a maximum density of 10 units per acre; provides at least ten (10) parking spaces plus one parking space on each mobile home site, and that no mobile home is closer than 25 feet to any property line of the mobile home park or closer than twenty (20) feet to any adjacent mobile home.

2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee on the site be provided.

3. Railroads.

4. Museums and art galleries compatible with the surrounding neighborhood provided that appropriate conditions and safeguards shall be required by the Board of Adjustment to protect the surrounding area from the proposed use and to protect the proposed use from future development in the vicinity. Consideration shall also be given to the anticipated traffic generated, character of the structure, noise, lighting and outside storage. A minimum of one (1) parking space for every one hundred (100) square feet of floor area, or fraction thereof shall be provided. For outdoor display areas, the Board of Adjustment shall require additional parking as deemed appropriate for the specific nature of the use.

5. Dance studios provided there is one parking space per employee plus one space for every 4 students; and provided that no part of the building can be used as a dwelling unit.

R-3	MIXED RESIDENTIAL	R-3
MINIMUM LOT AREA, WIDTH AND DEPTH	**MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS**	**MAXIMUM HEIGHT**

Single-family Dwelling: Area: ..... 7,200 square feet Width: ..... 60 feet Two-family Dwelling: Area: ..... 8,400 square feet Width: ..... 70 feet Multi-family Dwelling: Area: 6,000 square feet for the first unit plus 1,200 square feet for each additional unit up to 12, and 750 square feet for each additional unit over 12 Width: 80 feet Fraternities and Sororities: Area: 15,000 square feet Width: 80 feet _____ **MINIMUM FLOOR AREA** 1 story .....600 square feet 1½ stories .....720 square feet 2 stories .....840 square feet 2-family .....520 square feet multi-family .....380 square feet	Dwellings and other non-institutional uses: Front: ..... 25 feet Rear: ..... 30 feet Side: one- and two-family.....8 feet multi-family, 3 to 12 units.....10 feet multi-family, over 12 units....15 feet Side street, corner lot .....20 feet Schools, Churches or Other Public or Institutional Buildings, including dormitories: Front: ..... 35 feet Rear: ..... 35 feet Side: ..... 15 feet Side street, corner lot ..... 30 feet	4 stories or 50 feet _____ **MINIMUM WIDTH** All permitted dwellings: 20 feet For the purpose of determining the minimum width of a dwelling unit, the shortest dimension of the dwelling unit shall be used, excluding nonhabitable spaces.
PERMITTED ACCESSORY USES AND STRUCTURES		

1. Private garages.

2. Private swimming pools.

3. Private greenhouses not operated for commercial purposes.

4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.

5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

6. Off-street parking subject to the special requirements listed below.

R-3	MIXED RESIDENTIAL	R-3

SPECIAL REQUIREMENTS FOR OFF-STREET PARKING
AS A PERMITTED ACCESSORY USE OR STRUCTURE

1. Before any improvements are made a building permit is required and all improvements shall comply with Chapter 166, Site Plan Review, of this Code of Ordinances.

2. All off-street parking must lie adjacent to a C-2 (Highway Commercial) zoning classification and be located within 300 feet of the right-of-way lines of U.S. Highways 65-69 (Jefferson Street) or Iowa Highway 92 (Second Avenue).

3. A public sidewalk shall be installed along the entire side or sides of the property that abut all public streets or highways.

4. A six foot high double-face opaque wooden fence or a six foot high masonry wall with face brick, stucco or a similar finished surface shall be constructed toward the remaining R-1, R-2 or R-3 zoning classifications.

5. All vehicle traffic shall enter and exit the off-street parking directly onto U.S. Highways 65-69 (Jefferson Street) and Iowa Highway 92 (Second Avenue).

6. Procedure:

   A. Twelve (12) copies of the site plan must be submitted at least twenty (20) days prior to the next regularly scheduled Planning and Zoning Commission meeting.

   B. Names and addresses of property owners within two hundred (200) feet of the site plan must be shown on the site plan.

   C. Letters of notification must be sent to property owners within two hundred (200) feet of the site plan at least 15 days prior to the next regularly scheduled Planning and Zoning meeting.

   D. All required information as listed under Section 166.06 of this Code of Ordinances must be shown on the site plan.

   E. Within forty-five (45) days after receiving the application for site plan review, the Commission shall recommend to the Council to either approve, approve subject to conditions, or disapprove the site plan.

   F. Within thirty (30) days after receiving the recommendation from the Commission, the Council shall hold a public hearing and first consideration of the proposed site plan. The proposed site plan must be considered and voted on for passage at two (2) Council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the Council members. If the proposed site plan fails to receive sufficient votes for passage at any consideration, the proposed site plan shall be considered defeated.

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R-4	MULTIPLE FAMILY	R-4
PERMITTED PRINCIPAL USES AND STRUCTURES		**MINIMUM REQUIRED OFF-STREET PARKING**
1.	Multiple-family dwellings	2 spaces per unit
2.	Elderly and persons with disabilities	1 space per unit
3.	Boardinghouse/bed and breakfast	1 space for every 2 beds with all spaces on site or on a lot adjacent to the site or directly across the street or alley from the site
4.	Fraternity and sorority houses	1 space for every 2 beds with all spaces on site or on a lot adjacent to the site or directly across the street or alley from the site
5.	College dormitory	1 space for every 2 beds with all spaces on site or on a lot adjacent to the site or directly across the street or alley from the site
6.	Nursing, rest and convalescent homes	1 space for every 6 beds
7.	Hospitals and sanitariums, homes for orphans and aged on sites of one acre or more	1 space for every 6 beds
8.	Funeral parlors	1 space for every 4 seats in the main auditorium
9.	Churches and temples	1 space for every 4 seats in the main auditorium
10.	Elementary or secondary school or college	1 space per classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
11.	Private kindergartens and day nurseries	1 space plus 1 space per employee
12.	Parks, playgrounds or play fields	5 spaces for each acre developed for active usage
13.	Community meeting or recreation building	1 space per 150 square feet of floor area
14.	Public library	1 space per 150 square feet of floor area
15.	Residential care facility for not more than ten (10) developmentally disabled persons and any necessary support personnel	1/2 space per developmentally disabled person
SPECIAL EXCEPTION USES AND STRUCTURES		

Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Mobile home park provided that the installation complies with Chapter 135D of the Code of Iowa as amended; has a water supply and sanitary sewage collection and treatment system approved by the State Board of Health; has a minimum area of 3,500 square feet for each mobile home space; has a maximum density of 10 units per acre; provides at least ten (10) parking spaces plus one parking space on each mobile home site, and that no mobile home is closer than 25 feet to any property line of the mobile home park or closer than twenty (20) feet to any adjacent mobile home.

2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee on the site be provided.

3. Railroads.

4. Museums and art galleries compatible with the surrounding neighborhood provided that appropriate conditions and safeguards shall be required by the Board of Adjustment to protect the surrounding area from the proposed use and to protect the proposed use from future development in the vicinity. Consideration shall also be given to the anticipated traffic generated, character of the structure, noise, lighting and outside storage. A minimum of one (1) parking space for every one hundred (100) square feet of floor area, or fraction thereof shall be provided. For outdoor display areas, the Board of Adjustment shall require additional parking as deemed appropriate for the specific nature of the use.

R-4	MULTIPLE FAMILY	R-4
MINIMUM LOT AREA, WIDTH AND DEPTH	**MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS**	**MAXIMUM HEIGHT**
Multi-family Dwelling: Area: 6,000 square feet for the first unit plus 1,200 square feet for each additional unit up to 12, and 750 square feet for each additional unit over 12 Width: 80 feet Fraternities and Sororities: Area: .....15,000 square feet Width:.....80 feet _____ **MINIMUM FLOOR AREA** 1 story .....600 square feet 1½ stories .....720 square feet 2 stories.....840 square feet multi-family .....380 square feet	Dwellings and other non-institutional uses: Front: ..... 25 feet Rear: ..... 30 feet Side: one- and two-family.....8 feet multi-family, 3 to 12 units.....10 feet multi-family, over 12 units....15 feet Side street, corner lot .....20 feet Schools, Churches or Other Public or Institutional Buildings, including dormitories: Front: ..... 35 feet Rear: ..... 35 feet Side: ..... 15 feet Side street, corner lot ..... 30 feet	4 stories or 50 feet _____ **MINIMUM WIDTH** All permitted dwellings: 20 feet For the purpose of determining the minimum width of a dwelling unit, the shortest dimension of the dwelling unit shall be used, excluding nonhabitable spaces.
PERMITTED ACCESSORY USES AND STRUCTURES		

1. Private garages.
2. Private swimming pools.
3. Private greenhouses not operated for commercial purposes.
4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Off-street parking subject to the special requirements listed below.

SPECIAL REQUIREMENTS FOR OFF-STREET PARKING
AS A PERMITTED ACCESSORY USE OR STRUCTURE

1. Before any improvements are made a building permit is required and all improvements shall comply with Chapter 166, Site Plan Review, of this Code of Ordinances.
2. All off-street parking must lie adjacent to a C-2 (Highway Commercial) zoning classification and be located within 300 feet of the right-of-way lines of U.S. Highways 65-69 (Jefferson Street) or Iowa Highway 92 (Second Avenue).
3. A public sidewalk shall be installed along the entire side or sides of the property that abut all public streets or highways.
4. A six foot high double-face opaque wooden fence or a six foot high masonry wall with face brick, stucco or a similar finished surface shall be constructed toward the remaining R-1, R-2 or R-3 zoning classifications.
5. All vehicle traffic shall enter and exit the off-street parking directly onto U.S. Highways 65-69 (Jefferson Street) and Iowa Highway 92 (Second Avenue).

R-4 **MULTIPLE FAMILY** **R-4**

SPECIAL REQUIREMENTS FOR OFF-STREET PARKING
AS A PERMITTED ACCESSORY USE OR STRUCTURE (Continued)

6. Procedure:

A. Twelve (12) copies of the site plan must be submitted at least twenty (20) days prior to the next regularly scheduled Planning and Zoning Commission meeting.

B. Names and addresses of property owners within two hundred (200) feet of the site plan must be shown on the site plan.

C. Letters of notification must be sent to property owners within two hundred (200) feet of the site plan at least 15 days prior to the next regularly scheduled Planning and Zoning meeting.

D. All required information as listed under Section 166.06 of this Code of Ordinances must be shown on the site plan.

E. Within forty-five (45) days after receiving the application for site plan review, the Commission shall recommend to the Council to either approve, approve subject to conditions, or disapprove the site plan.

F. Within thirty (30) days after receiving the recommendation from the Commission, the Council shall hold a public hearing and first consideration of the proposed site plan. The proposed site plan must be considered and voted on for passage at two (2) Council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the Council members. If the proposed site plan fails to receive sufficient votes for passage at any consideration, the proposed site plan shall be considered defeated.

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R-5	PLANNED RESIDENCE DISTRICT	R-5

STATEMENT OF INTENT

It is the intent of this district to permit innovative design concepts to be used in residential development where a deviation from conventional layout and development practices would result in a more appropriate use of land and subsequently promote the general health, welfare, safety and morals of future residents of the area.

It is not the intent of this classification to permit an unrelated mixture of uses to be developed, but to permit the establishment of unified developments with uses arranged in a manner compatible with one another, the site to be developed and the surrounding area.

It is further the intent of this district that such development adhere to recognized principles of civic design, land use planning and landscape architecture.

PERMITTED USES

1. Any use permitted in the R-3 Mixed Residential District.

COMMERCIAL USES AND CUSTOMARY ACCESSORY USES

1. Grocery store.
2. Meat market.
3. Retail bakery.
4. Prescription pharmacy.
5. Dry cleaners or Laundromat.
6. Barber and beauty shops.
7. Golf courses and country clubs.

STANDARDS AND REQUIREMENTS
Where in conflict with other provisions of this chapter, the following requirements shall prevail: 1. *Lot Area.* The minimum lot area shall be not less than four (4) acres. 2. *Land Use.* Combinations of land uses including single-family, multiple-family and commercial uses are permitted. Only commercial uses listed in the R-5 classification may be permitted as a part of a planned residence district. Such commercial uses shall serve primarily as supporting facilities to the residential use of the proposed development. Commercial uses shall not exceed fifteen percent (15%) of the total area of the development. 3. *Yards, Area and Height.* Variations in yard requirements, lot area and height required in the R-3 district may be approved for the planned residence district; however, the minimum wards around the boundaries of the R-5 district shall not be less than required in the R-3 district. 4. *Density.* The total number of dwelling units within the planned residence district shall not exceed the average net density that would be permitted in the R-3 district for the type or types of dwellings proposed. Density shall be computed on a total area basis using private streets and drives, common open space, park areas, recreation areas, off-street parking areas, as well as building site areas, but shall not include areas occupied or used for commercial purposes or related uses. 5. *Open Space.* Planned residence districts shall take into consideration the need for open space and recreation areas to enhance the general character of the area. In the event open space land or recreation areas are to be retained under private ownership, the owner shall submit a legally binding instrument setting forth the procedures and responsibilities for maintaining said areas including the means for financing maintenance costs.

R-5	PLANNED RESIDENCE DISTRICT	R-5

PROCEDURE

Requests for rezoning to the R-5 Planned Residence District shall be the same as set forth in Sections 165.38 and 165.39 of this chapter; provided however, the following additional information shall be submitted by the applicant with such request.

1. *Proposed Development Plan.* Six (6) copies of a proposed development plan showing the locations, types and arrangement of buildings, uses, streets, parks, open space, parking areas, landscaped areas, planting screens, drainage and other pertinent features.

2. *Reports of Commission.* The Commission shall review the proposal and submit its recommendations, whether for approval, disapproval, or modification thereof to the Council. A copy of the recommendations shall also be sent to the applicant.

3. *Approval.* Final action shall be by the Council as provided for in Sections 165.38 and 165.39 of this chapter.

CHANGES AND MODIFICATIONS

The plan as finally approved by the Council shall be filed with the Zoning Administrator and all construction compliance certificates shall be issued on the basis of conformance with said plan. Minor changes in building arrangements, streets, sidewalks, parking lots, drainage courses and accessory buildings not exceeding 200 square feet in area that do not substantially alter the character of the development are allowable. Any changes shall be considered as amendments to the approved plan and shall be considered and acted upon by the Commission and the Council as separate and additional zoning changes.

(Ord. 1276 – May 04 Supp.)

CONSTRUCTION COMPLIANCE CERTIFICATES

In the event commercial uses are approved as a part of a planned area development, a construction compliance certificate for said commercial facilities shall not be issued until a minimum of twenty-five percent (25%) of the housing units planned for the area have been completed or will be built simultaneously. Separate construction compliance certificates shall be obtained for the construction of housing and commercial facilities where separate buildings are used.

R-6	MOBILE HOME RESIDENTIAL DISTRICT	R-6

STATEMENT OF INTENT

The mobile home residential zone is designed to permit the location and development of mobile homes which would not normally comply with the building, electrical and plumbing codes to be located in areas of the community. Provision is made to allow such residences to be placed upon individual subdivided lots.

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family mobile homes	2 spaces per unit
2. Single-family dwellings	2 spaces per unit

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, and located on the same lot or a contiguous lot devoted to a principal permitted use which is under the same ownership.
3. Temporary buildings used in connection with construction work, provided that such buildings are removed promptly upon completion of the construction work.

MINIMUM LOT AREA, WIDTH AND DEPTH	YARD REQUIREMENTS
Single-family dwellings and mobile homes: Area: ..... 7,200 square feet Width: ..... 60 feet	Single-family dwellings and mobile homes converted to real estate: Front: .....25 feet Rear: .....30 feet Side: .....8 feet Side street, corner lot .....20 feet

SPECIAL REQUIREMENTS
1. To be zoned R-6 an area must contain a total of eight (8) acres or be contiguous to other lands zoned R-6 so that the total land area zoned and to be zoned R-6 consists of not less than eight (8) acres

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C-1	OFFICE PARK COMMERCIAL DISTRICT	C-1

Statement of Intent. The C-1 District is intended and designed to provide certain areas of the City for the development of professional and business offices. The district is intended to be compatible with established residential areas where limited office use would be suitable and not incompatible with the residential character of the district. The district may also be intended for certain residential areas which, by reason of proximity to existing commercial areas and major streets, would be suitable for limited office use.

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Business and professional offices such as the following: law, engineering, architecture, real estate, insurance, accounting, finance, banking, stock brokerage and uses with similar characteristics.	1 space per 300 square feet of floor area.
2. The office of a doctor, dentist, osteopath, chiropractor, optometrist, or similar profession.	
3. Clinic or group medical center including dental, but not including animal clinics or hospitals.	
4. Branch facilities of colleges and schools which specialize in business, commercial and technical training courses.	
5. Research, education, design, marketing and production needs of the general business community.	
6. Health clubs, athletic clubs, or fitness centers with all indoor facilities.	

PERMITTED ACCESSORY USES AND STRUCTURES

1. Day care centers, day nursery or nursery school licensed by the State of Iowa and used in conjunction with the principal use.

2. Storage areas, provided they are incidental to the principal use, but not to exceed a floor area which is equal to twenty-five percent (25%) of the floor area used by the principal use and such storage areas shall be wholly contained within the principal structure.

3. Retail establishments and employee cafeterias accessory to the principal building; provided there shall be no access to such place of retail use except from inside the principal building, nor shall any display of stock, goods or advertising for such be so arranged that it can be viewed from outside the principal building.

SPECIAL EXCEPTION USES AND STRUCTURES
Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following: 1. Hospitals 2. Museums and Art Galleries 3. Hotels, Motels 4. Libraries
BULK REGULATIONS
The following minimum requirements shall be observed. 1. Lot Area – 40,000 square feet 2. Lot Width – 150 feet 3. Front Yard – 40 feet 4. Side Yard – 10 feet 5. Side Street – 20 feet 6. Rear Yard – 40 feet 7. Maximum Height – 4 stories or 50 feet 8. Minimum Off-Street Parking – 1 stall per 300 square feet of floor area

SITE PLAN REQUIREMENTS
All requirements of Chapter 166, Site Plan, of the Municipal Code shall be met including Section 166.11, Highway Corridor Design Standards, even though such buildings may not front Highways 65-69 or 92.

(Ord. 1492 – May 12 Supp.)

C-2 HIGHWAY COMMERCIAL C-2	
PERMITTED PRINCIPAL USES AND STRUCTURES	**MINIMUM REQUIRED OFF-STREET PARKING**
1. Automotive display, sales, service and repair	1 space per 300 square feet of sales, service or office floor area
2. Farm implement display, sales, service and repair	1 space per 300 square feet of sales, service or office floor area
3. Plant nursery and garden supplies sales	1 space per 300 square feet of sales, service or office floor area
4. Lumberyard or building materials sales	1 space per 300 square feet of sales, service or office floor area
5. Restaurant, nightclub, café or tavern	1 space per 100 square feet of floor area
6. Dance hall and skating rink	1 space per 100 square feet of floor area
7. Drive-in eating and drinking establishment	5 spaces per 100 square feet of floor area
8. Bowling alley	5 spaces per lane or alley
9. Drive-in bank	4 spaces per teller window with a minimum of 5 spaces
10. Motel, hotel or tourist campground	1 space per unit or campsite
11. Dwelling unit above a store or shop	1 space per unit
12. Bus terminal	6 spaces plus 1 off-street loading space for each bus serving the terminal
13. Funeral parlor	1 space per 4 seats in the main chapel with a minimum of 5 spaces
14. Railroads and public utilities but not including storage or maintenance yards and buildings	1 space per employee, plus 1 space per vehicle used by the facility with a minimum of 5 spaces
15. Monument and market display and sales	1 space per employee, plus 1 space per vehicle used by the facility with a minimum of 5 spaces
16. Plumbing, heating and air conditioning sales, service and repair	1 space per employee, plus 1 space per vehicle used by the facility with a minimum of 5 spaces
17. Drive-in theater	Storage lanes outside the ticket booth to accommodate 10% of theater capacity
18. Golf driving range, miniature golf	3 spaces per tee or green
19. Radio or television broadcasting station	5 spaces plus 1 space per employee
20. Dry cleaners	1 space per employee, plus 1 space for every 800 square feet with a minimum of 5 spaces

21. Clubs and lodges	1 space for every 4 places of seating capacity
22. Personal services and repair shops	1 space per employee, plus 1 space for every 300 square feet of floor area with a minimum of 5 spaces
23. Business and professional offices and studios	1 space per employee, plus 1 space for every 300 square feet of floor area `with a minimum of 5 spaces
24. Wholesale ice sales	1 space per employee, plus 1 space for every 300 square feet of floor area
25. Facilities for the training or rehabilitation of mentally and/or physically handicapped individuals, even though such training involves the assembling, packaging or restoration of manufactured items, so long as the training does not involve the manufacture of an original product	1 space per employee, plus 1 space for every 300 square feet of floor area with a minimum of 5 spaces
26. Sales, service and repair of mobile homes, campers, boats, motorcycles, snowmobiles and other recreational equipment	1 space for every 300 square feet of floor area
27. Antiques, pottery or ceramic shops	1 space for every 300 square feet of floor area
28. Liquor store	1 space for every 100 square feet of floor area for the first 2,000 square feet of floor area, and 1 space for every 200 square feet of floor area in excess of 2,000 square feet
29. Frozen food locker	1 space for every 300 square feet of floor area
30. Floral shops	1 space for every 300 square feet of floor area
31. Printing shops	1 space for every 300 square feet of floor area with a minimum of 5 spaces
32. Combination motel and apartment buildings	2 spaces per unit
33. Service, repair and rental of trucks, trailers, household goods, light construction equipment and lawn and garden equipment	1 space for every 300 square feet of total floor area with a minimum of 5 spaces
34. Retail livestock feed sales exclusive of milling, mixing, storage of dry bulk feed and grain and grinding of feed	1 space for every 300 square feet of sales or service floor area

C-2	HIGHWAY COMMERCIAL	C-2
PERMITTED PRINCIPAL USES AND STRUCTURES		**MINIMUM REQUIRED OFF-STREET PARKING**
35.	Grocery, apparel, appliances, hardware, toy, drug, gift and specialty shops and retail stores similar in nature	1 space per 100 square feet of floor area for the first 2,000 square feet of floor area, and 1 space per 200 square feet for the floor area in excess of 2,000 square feet
36.	Dwelling unit used in conjunction with a store or shop	2 spaces per unit
37.	Churches, temples and parsonage or rectory adjacent thereto	1 space for every 4 seats in the main auditorium
38.	Veterinarian clinic restricted to companion animals without outside cages or runs. No such structure is permitted within 100 feet of a residentially zoned area	1 space for every 300 square feet of surface and office floor area with a minimum of 5 spaces
39.	Bottle and can redemption center with all storage and activities to be conducted in a totally enclosed structure	1 space per employee, plus 1 space for every 300 square feet of total floor area with a minimum of 5 spaces
40.	Auction sales which are limited to the sales of appliances, furniture, apparel, toys and products similar in nature and size, provided there is no exterior storage and provided further that there are no exterior sales after sunset	1 space for every 100 square feet of floor area
41.	Self-service storage facilities	1 space for every 100 storage cubicles or a fraction thereof and one space for each employee shall be located adjacent to the project office or in a location approved by the Building Official on the same lot
42.	Limited manufacturing and processing subject to the special requirements listed below	1 space per employee or 1 space per 500 square feet of floor area, whichever is greater

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Storage warehouses in conjunction with the permitted uses or structures of this district.
3. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Museums and art galleries compatible with the surrounding neighborhood provided that appropriate conditions and safeguards shall be required by the Board of Adjustment to protect the surrounding area from the proposed use and to protect the proposed use from future development in the vicinity. Consideration shall also be given to the anticipated traffic generated, character of the structure, noise, lighting and outside storage. A minimum of one (1) parking space for every one hundred (100) square feet of floor area, or fraction thereof shall be provided. For outdoor display areas, the Board of Adjustment shall require additional parking as deemed appropriate for the specific nature of the use.

2. Preschools or day care centers provided that no preschool or day care center shall commence operations in any building nearer than one hundred fifty (150) feet to any building wherein there is the sale of beer, wine or liquor for consumption on the premises, and all preschools or day care centers shall be licensed by the State of Iowa, and all day care and preschools centers shall have one off-street parking stall per employee.

3. Elementary or secondary schools provided that such schools shall be for grades kindergarten through eighth, shall have six-foot high fencing between the school property and adjacent commercial uses, shall have at least one vehicle access that is not a highway access, and shall have one off-street parking space per classroom and one off-street parking space per office.

C-2	HIGHWAY COMMERCIAL	C-2
MINIMUM LOT AREA, WIDTH AND DEPTH	**MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS**	**MAXIMUM HEIGHT**
Commercial Uses:.....None **MINIMUM FLOOR AREA** Dwelling unit above a store or shop: 380 square feet	Front..... 15 feet No side or rear yard except where apartments are above a store or shop, a rear yard of 20 feet shall be provided and where adjacent to an "A" or "R" district, a side yard of 10 feet and a rear yard of 20 feet shall be provided	4 stories or 50 feet
SPECIAL REQUIREMENTS FOR LIMITED MANUFACTURING AND PROCESSING		
1. All manufacturing and processing uses shall be wholly contained within a building with no exterior storage and shall not create offensive noise, odor, vibration or electrical interference. 2. The total number of employees shall be limited to twenty (20). 3. Products to be manufactured or processed shall be cameras and other photographic equipment, counter top appliances, electronic devices, pharmaceuticals, radios, novelties, toys and similar products in size and character.		
SPECIAL REQUIREMENTS FOR SELF-SERVICE STORAGE FACILITIES		

1. The maximum lot area shall be three (3) acres.
2. The maximum building height shall be eighteen (18) feet.
3. The maximum area per unit shall be six hundred (600) square feet.
4. When a self-service storage facility is adjacent to an A-1, R-1, R-2, R-3, R-4, R-5 or R-6 zoning district, the exterior of the building and landscaping shall be compatible to the rest of the residential area, and the facility shall use no wire fencing.
5. All areas subject to traffic shall have a hard surface.
6. The storage of radioactive materials, explosives, and flammable or hazardous chemicals is prohibited.
7. The exterior storage of all kinds is prohibited. - ***(Ord. 1387 – Feb. 08 Supp.)***

SPECIAL REQUIREMENTS FOR AUTOMOTIVE DISPLAY, SALES, SERVICE AND REPAIR

1. All outdoor areas where two (2) or more wrecked automobiles, automobile parts, stock cars, race cars, race trucks, figure eight cars, demolition derby cars, drag race cars, off-road race cars or sprint cars are present, except new vehicles which have not been raced and are on display for sale, shall be enclosed on all sides from public view by a double faced opaque wooden or masonry fence or slatted chain link fence, all with minimum height of six (6) feet above ground.

(Ord. 1432 – Sep. 09 Supp.)

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C-3	GENERAL RETAIL AND OFFICE	C-3
PERMITTED PRINCIPAL USES AND STRUCTURES		**MINIMUM REQUIRED OFF-STREET PARKING**
1. Automotive service and repair		*No off-street parking is required in this District.*
2. Dry cleaners or laundry		*(See Ordinance Nos. 468 and 470 for parking*
3. Bus terminal		*spaces required for specific tracts of property.)*
4. Retail stores including or similar in character to those dealing with food, beverages, clothing, dry goods, hardware, paint, drugs, furniture, appliances, sporting goods, and office supplies		
5. Specialty shops including or similar in character to those dealing with cameras, books, magazines, gifts, curios, antiques, jewelry, confectionery, flowers, music, sound equipment, electronics, hobbies and crafts		
6. Personal services including or similar in character to barbershops, beauty parlors, tailors, laundries and shoe repair		
7. Repair shops and services including electrical appliances, electronic equipment, bicycles, sporting goods, furniture, glass, plumbing, heating, air conditioning and uses similar in character		
8. Business and professional offices and studios		
9. Medical, dental, chiropractic clinics		
10. Restaurant, nightclub, café or tavern		
11. Public buildings and utilities but not including storage or maintenance yards or buildings		
12. Public garages, storage garages and parking lots		
13. Hotels and motels		
14. Printing, publishing and engraving		
15. Dance or music schools		
16. Dwelling unit above a store or shop		
17. Commercial amusements		

18. Wholesale display and salesroom	
19. Lumberyard or building material sales yard	
20. Financial institutions, including drive-up service windows	
21. Public or private museums or art galleries	
22. Facilities for the training or rehabilitation of mentally and/or physically handicapped individuals, even though such training involves the assembling, packaging or restoration of manufactured items, so long as the training does not involve the manufacture of an original product	[None specified]
23. Farm implement and commercial truck sales, service and repair	[None specified]
24. Limited manufacturing and processing subject to the special requirements listed below	1 space per employee or 1 space per 500 square feet of floor area, whichever is greater
25. Multiple-family dwellings subject to the special requirements listed below	Two spaces per unit

C-3	GENERAL RETAIL AND OFFICE	C-3

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Storage warehouses in conjunction with the permitted uses or structures of this district.
3. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.35(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Preschools provided that no preschool shall have a front or side yard abutting Highway 65-69 or Highway 92; no preschool shall exist within a building fronting the City Square; and no preschool shall commence operations in any building nearer than one hundred fifty (150) feet to any building wherein there is the sale of beer, wine or liquor for consumption on the premises.
2. Clubs and lodges.
3. Churches and temples that existed in C-3 on the effective date of Ordinance No. 1266 (October 15, 2003).

(Ord. 1266 – Nov. 03 Supp.)

4. Uses and structures that are clearly incidental and necessary, and are accessory uses to a college. These uses shall have the same commercial characteristics as one or more of the permitted principal uses listed within C-3 zoning.

(Ord. 1321 – Aug. 05 Supp.)

5. Community meeting rooms.

(Ord. 1507 – Apr. 13 Supp.)

SPECIAL REQUIREMENTS FOR MULTIPLE-FAMILY DWELLINGS

1. Minimum number of four units per structure and maximum number of 12 units per structure.
2. No multi-family dwelling to be constructed within Blocks 12 and 13 and the South ½ of Blocks 7, 8, and 9 and the North ½ of Blocks 16, 18 and 17 Original Town Plat.
3. Minimum front yard of 15 feet.
4. Minimum side yard of 5 feet.
5. Two off-street parking stalls per unit, and all parking areas to be located in the rear yard.
6. A minimum of 5,000 square feet for the first unit, and 750 square feet for any additional units.

MINIMUM LOT AREA, WIDTH AND DEPTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
Commercial Uses:.....No Minimum Dwelling units above a store or shop: Where apartments are above a store or shop, 6,000 square feet for the first unit plus 1,200 square feet for each additional unit up to twelve, and 750 square feet for each additional unit over twelve. **MINIMUM FLOOR AREA** Dwelling unit above a store or shop: 380 square feet	Commercial Uses: None except where apartments are above a store or shop, a rear yard of 20 feet shall be provided and where adjacent to an "R" district, a front or side yard of 10 feet and a rear yard of 20 feet shall be provided. Dwelling units above a store or shop: Minimum rear yard ..... 20 feet. Parcels abutting Highway 65-69 or on Highway 92: A minimum front yard of 15 feet; this is applicable to parcels abutting the first 150 feet of side streets intersecting said highways.	4 stories or 50 feet

C-3	GENERAL RETAIL AND OFFICE	C-3
	SPECIAL REQUIREMENTS FOR LIMITED MANUFACTURING AND PROCESSING	
1. All manufacturing and processing uses shall be wholly contained within a building with no exterior storage and shall not create offensive noise, odor, vibration or electrical interference. 2. The total number of employees shall be limited to thirty-five (35). 3. Products to be manufactured or processed shall be cameras and other photographic equipment, counter top appliances, electronic devices, pharmaceuticals, radios, novelties, toys and similar products in size and character. 4. Maximum allowable floor space shall be 10,000 square feet. 5. Products manufactured and/or processed must be sold retail on the same site. The minimum retail area shall be 10% of the total floor area.		
	SPECIAL REQUIREMENTS FOR AUTOMOTIVE SERVICE AND REPAIR	
1. All outdoor areas where two (2) or more wrecked automobiles or automobile parts, except new products on display, are stored shall be enclosed on all sides by fence and screened from public view.		

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C-4	PLANNED COMMERCIAL DISTRICT	C-4

STATEMENT OF INTENT

The C-4 Planned Commercial District is intended to allow potential developers flexibility in development of particular tracts of land without compromising existing uses and structures by submitting a comprehensive plan of one (1) acre or more with the change of zoning application. Once this plan is approved by the Planning and Zoning Commission and Council, it cannot be changed except as provided herein.

PERMITTED PRINCIPAL USES AND STRUCTURES

Because of the likelihood of existing approved C-4 (planned commercial) areas needing to change their use or characteristics, the permitted principal uses and structures will be separated into two (2) classes, depending upon area needed, outside storage, compatibility with existing A-1 and residential districts. For the purpose of not allowing what may be considered an objectionable use, the permitted principal use approved by the Council after the effective date of the Zoning Ordinance may not be changed to another use in another class without Council approval. Exception: Class One permitted principal uses are allowed within Class Two.

CLASS ONE	MINIMUM REQUIRED OFF-STREET PARKING
1. Retail stores including or similar in character to those dealing with food, beverages, clothing, dry goods, hardware, paint, drugs, furniture, appliances, sporting goods and office supplies	1 space per 300 square feet of floor area
2. Specialty stores including or similar in character to those dealing with cameras, books, magazines, gifts, curios, antiques, jewelry, confectionery, flowers, music, sound equipment, electronics, hobbies and crafts	1 space per 300 square feet of floor area
3. Personal services including or similar in character to barbershops, beauty parlors, tailors, laundries and shoe repair	1 space per 300 square feet
4. Business and professional offices and studios	
5. Antiques, pottery or ceramic shops	
6. Retail sales of fishing supplies and fishing bait	
7. Liquor store	

8. Printing, publishing and engraving	of floor area
9. Western wear, saddlery and accessory shops	
10. Medical, dental, chiropractic clinics	
11. Repair shops and services including electrical appliances, electronic equipment, bicycles, sporting goods, furniture, glass, plumbing, heating, air conditioning and uses similar in nature	
12. Financial institutions, including drive-up service windows	1 space per 300 square feet of floor area plus 4 spaces per teller window
13. Plumbing, heating, air conditioning, sales, service and repair	1 space per 300 square feet of floor area plus 1 space per employee
14. Wholesale display and salesroom	1 space per 800 square feet of floor area plus 1 space per vehicle used by business
15. Dwelling unit above a store or shop	2 spaces per unit
16. Restaurant, night club, café or tavern	1 space per 100 square feet of floor area
17. Dance hall and skating rink	1 space per 300 square feet of floor area
18. Public or private museums or art galleries	1 space per 300 square feet of floor area
19. Dance or music schools	1 space per 300 square feet of floor area
20. Veterinarian clinic restricted to companion animals without outside cages or runs; no structure shall be permitted within 100 feet of a residentially zoned area	1 space per 300 square feet of floor area
21. Clubs and lodges	1 space for every 4 places of seating capacity
22. Funeral parlor	1 space for every 4 seats in the main chapel

C-4 PLANNED COMMERCIAL DISTRICT C-4	
CLASS TWO	**MINIMUM REQUIRED OFF-STREET PARKING**
1. Drive-in eating and drinking establishment	1 space per 100 square feet of floor area
2. Auction sales which are limited to the sales of appliances, furniture, apparel, toys and products similar in nature and size, provided there is no exterior storage and provided further that there are no exterior sales after sunset	1 space per 300 square feet of floor area
3. Automotive display, sales, service and repair	1 space per 300 square feet of floor area
4. Plant nursery and garden supplies sales	1 space per 300 square feet of floor area
5. Frozen food locker	1 space per 300 square feet of floor area
6. Boats, motorcycles, snowmobiles and other recreational vehicle display, sales, service and repair	1 space per 300 square feet of floor area
7. Service, repair and rental of trucks, trailers, household goods, light construction equipment, and lawn and garden equipment	1 space per 300 square feet of floor area
8. Facilities for the training or rehabilitation of mentally and/or physically handicapped individuals, even though such training involves the assembling, packaging or restoration of manufactured items, so long as the training does not involve the manufacture of an original product	1 space per 300 square feet of floor area
9. Bottle and can redemption center with all storage and activities to be conducted in a totally enclosed structure	1 space per 300 square feet of floor area
10. Bowling alley	5 spaces per lane or alley
11. Motel, hotel or tourist campground	1 space per unit or campsite
12. Bus terminal	6 spaces plus 1 off-street loading space for each bus serving the terminal
13. Monument and marker display and sales	2 spaces plus 1 space per employee
14. Railroads, public storage garage and utilities but not including outside storage or maintenance yards	1 space per employee
15. Churches, temples and parsonage or rectory adjacent thereto	1 space per 4 seats in the main auditorium
16. Farm implement display, sales, service and repair	1 space per 300 square feet of floor area

17. Lumberyard or building material sales yard	1 space per 300 square feet of floor area
18. Sales, service and repair of mobile homes and campers	1 space per 300 square feet of floor area
19. Retail livestock feed sales, exclusive of milling, mixing, storage of dry bulk feed and grain and grinding of feed	1 space per 300 square feet of floor area
20. Drive-in theater	Storage lanes outside the ticket booth to accommodate 10% of the theater capacity
21. Golf driving range, miniature golf	2 spaces per tee or green
22. Radio and television broadcasting station	5 spaces plus 1 space per employee
PERMITTED ACCESSORY USES AND STRUCTURES	
1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district. 2. Storage in conjunction with the permitted uses or structures of this district, but only when contained within the same building. 3. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.	
SPECIAL EXCEPTION USES AND STRUCTURES	
None	

C-4	PLANNED COMMERCIAL DISTRICT	C-4
MINIMUM AREA	**MINIMUM FRONT, SIDE AND REAR YARDS**	**MAXIMUM HEIGHT**
Area: ..... 1 acre Commercial Uses: No minimum Dwelling units above store or shop: Where apartments are above a store or shop, six thousand (6,000) square feet for the first unit plus one thousand two hundred (1,200) square feet for each additional unit up to twelve (12), and seven hundred fifty (750) square feet for each additional unit over twelve (12)	No side or rear yard except where apartments are above a store or shop, a rear yard of twenty (20) feet shall be provided and where adjacent to an "A" or "R" district, a side yard of ten (10) feet and a rear yard of twenty (20) feet shall be provided. Parcels abutting Highway 65-69 or on Highway 92: A minimum front yard of fifteen (15) feet; this is applicable to parcels abutting the first one hundred fifty (150) feet of side streets intersecting said highways.	4 stories or 50 feet _____ **MINIMUM FLOOR AREA** Dwelling unit above a store or shop: 380 square feet
OFF-STREET PARKING		
With a change of use, the off-street parking requirement shall correspond to the requirements of the new approved use unless the proposed use parking requirement is the same as the existing parking requirements.		
PROCEDURE		

The request for rezoning to the C-4 Planned Commercial District shall be the same as set forth in Sections 165.38 and 165.39 of this chapter; provided, however, the following additional information shall be submitted by the applicant with such request:

1. Proposed Development Plan. Six (6) copies and a reproducible mylar of the proposed development plan showing the location, types, uses and arrangement of buildings, streets, parks, open space, parking areas, landscaped areas, planting screens, drainage and other pertinent features.

2. Reports of Planning and Zoning Commission. The Commission shall review the proposal and submit its recommendation for approval, disapproval or modifications thereof to the Council.

3. Approval. Final action shall be by the Council as provided for in Sections 165.38 and 165.39 of this chapter.

CHANGES AND MODIFICATIONS

The plan as finally approved by the Council shall be filed with the Building Official, and all construction compliance certificates shall be issued on the basis of conformance with said plan. Minor changes in the building style or arrangements that do not substantially alter the character of the development are allowable, with prior approval from the Building Official. Any changes such as street locations, land or structure use or major changes in building arrangements shall be considered as amendments to the approved plan and shall be considered and acted upon by the Commission and Council as separate and additional zoning changes.

Where the strict application of the standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such changes and modifications from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter. These changes and modifications may include the following:

1. Minimum floor area.

2. Maximum height.

3. Required off-street parking.

4. Minimum developed area.

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M-1	LIMITED INDUSTRIAL	M-1
PERMITTED PRINCIPAL USES AND STRUCTURES		**MINIMUM REQUIRED OFF-STREET PARKING**
1. Manufacturing and processing uses that are wholly contained within a building and have no exterior storage, create no offensive noise, odor, vibration and cause no electrical interference		1 space per 3 employees during the maximum work shift with a minimum of 1 space per 500 square feet of floor area
2. Wholesaling and warehousing but not including the bulk storage of petroleum products or liquid fertilizer under pressure		4 spaces for the first 5,000 square feet of floor area, and 1 space for every additional 5,000 square feet of floor
3. Farm implement display, sales, service and repair		1 space per 300 square feet of floor area
4. Truck and freight terminal		
5. Animal hospitals, kennels or veterinarian's office		
6. Truck display, sales, repair and storage		
7. Welding and repair shop		
8. Railroads and public utilities, including storage and maintenance yards, but excluding communications towers		
9. Lumberyard and building material sales and storage		1 space per employee plus 1 space per vehicle used by the industry
10. Plumbing, heating, air conditioning and sheet metal shops		
11. Frozen food locker		
12. Appliance repair and servicing		
13. Contractor's office and shops		
14. Business offices		1 space per 300 square feet of floor area ***(Ord. 1353 – May 06 Supp.)***
All uses shall provide at least one (1) loading space for every 10,000 square feet of floor area.		
PERMITTED ACCESSORY USES AND STRUCTURES		

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

2. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least 2,400 square feet is reserved and maintained for use by the occupants.

SPECIAL EXCEPTION USES AND STRUCTURES

Museums and art galleries compatible with the surrounding neighborhood provided that appropriate conditions and safeguards shall be required by the Board of Adjustment to protect the surrounding area from the proposed use and to protect the proposed use from future development in the vicinity. Consideration shall also be given to the anticipated traffic generated, character of the structure, noise, lighting and outside storage. A minimum of one (1) parking space for every one hundred (100) square feet of floor area, or fraction thereof, shall be provided. For outdoor display areas, the Board of Adjustment shall require additional parking as deemed appropriate for the specific nature of the use.

MINIMUM LOT AREA, WIDTH AND DEPTH	MINIMUM FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
None	Front..... 35 feet Rear ..... 35 feet Side..... 20 feet Side street, corner lot..... 35 feet	4 stories or 50 feet

SPECIAL REQUIREMENTS
None

M-2 GENERAL INDUSTRIAL M-2	
PERMITTED PRINCIPAL USES AND STRUCTURES	**MINIMUM REQUIRED OFF-STREET PARKING**
1. Manufacturing and processing uses that create no offensive noise, odor, vibration and cause no electrical interference ***(Ord. 1258 – Aug. 03 Supp.)***	1 space per 3 employees during the maximum work shift with a minimum of 1 space per 500 square feet of floor area
2. Wholesaling and warehousing but not including the bulk storage of petroleum products or liquid fertilizer under pressure	4 spaces for the first 5,000 square feet of floor area, and 1 space for every additional 5,000 square feet of floor area
3. Truck and freight terminal	1 space for every 300 square feet of sales, service or office floor area
4. Animal hospital or kennel	
5. Grain storage bins	
6. Lumberyard building material sales and storage	
7. Grain elevator and feed mill	
8. Welding and repair shop	
9. Tool, die, gauge and machine shops	
10. Railroads and public utilities, including storage and maintenance yards, but excluding communications towers	
11. Automobile paint and body shop	1 space per employee plus 1 space per each vehicle used by the industry
12. Plumbing, heating, air conditioning and sheet metal shops	
13. Processing and handling of cheese, butter and other milk products	
14. Contractor shops and storage yards	
15. Concrete products manufacture and central mixing and proportioning plant	
16. Structural iron and steel fabrication	
17. Schooling and training facilities for contractors, industrial trades and other uses permitted in M-2 or similar thereto	1 space per employee and 1 space per student or trainee
18. Business offices	1 space per 300 square feet of floor area ***(Ord. 1353 – May 06 Supp.)***
19. Automotive repair and service including recreational vehicles	1 space per employee plus 1 space per each vehicle used by the industry

	(Ord. 1491 – May 12 Supp.)

All uses shall provide at least one (1) loading space for every 10,000 square feet of floor area.

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

2. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least 2,400 square feet is reserved and maintained for use by the occupants.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.35(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Stockyard, rendering works, loading pens, buying stations and/or sales barns and yards, provided that it is not closer than one-fourth (¼) mile to any dwelling unit other than that of the owner or operator, or any park, school, church or place of public assembly, that the provisions for drainage, sanitation, waste disposal, and fly control are approved by the City Health Officer, that it is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; and that one (1) parking space for each employee and 1 space for each vehicle used by the industry be provided.

2. Poultry processing plants provided that the provision for drainage, sanitation, waste disposal, and fly control are approved by the City Health Officer, that it is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; and that one (1) parking space for each employee and 1 space for each vehicle used by the industry be provided.

3. Sanitary landfill or waste disposal area, provided it is not used for disposal of dead animals, that refuse shall be covered with dirt daily if it contains raw garbage, that a nuisance due to smoke, odor or blowing of trash and debris shall not be created, and that the site shall be restored to a condition compatible with the adjacent area upon conclusion of the dump operation. An access road having at least a graveled surface and five (5) parking spaces shall be provided. No landfill or waste disposal area shall be located closer than one-fourth (¼) mile to any dwelling, park, school or place of public assembly.

4. Auto wrecking and junkyards on sites of two (2) acres or more provided that front yard are maintained as an open space free of weeds and debris; and that no open burning of waste or discarded materials is conducted on the site.

5. Bulk storage of petroleum products and liquid fertilizer under pressure not located within 300 feet of any existing dwelling, park, school, church or place of public assembly.

6. Agricultural feed sales and associate retail items, provided that the property has frontage on U.S. Highway 65/69 or Iowa Highway 92.

7. Sales of used recreational vehicles and customized towing vehicles.

(Ord. 1491 – May 12 Supp.)

M-2	**GENERAL INDUSTRIAL**	**M-2**
MINIMUM LOT AREA, WIDTH AND DEPTH	**MINIMUM FRONT, SIDE AND REAR YARDS**	**MAXIMUM HEIGHT**
None	Front..... 35 feet Rear ..... 35 feet Side..... 20 feet Side street, corner lot..... 35 feet	60 feet
SPECIAL REQUIREMENTS		
None		

165.10 SUPPLEMENTARY DISTRICT REGULATIONS. Subject to Section 165.09, the following provisions, regulations, or exceptions may apply equally to all districts except as hereinafter provided:

1. Visibility at Intersection. On a corner lot in any district, except the C-3 General Retail and Office District, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines. For purposes of this section, a split rail fence, chain link fence, or any other fence which consists of vision blocking material over twenty-five percent (25%) or less of its total surface area is not considered as obstructing vision.

2. Accessory Buildings. No accessory building shall be erected in any required front or side yard and no separate accessory building shall be erected within five (5) feet of any main buildings or any property line. No separate accessory building shall occupy more than thirty percent (30%) of the required rear yard or exceed twelve (12) feet in height.

3. More than One Principal Structure on a Lot. In any district, more than one (1) principal structure housing a permitted principal use shall be erected on a single lot provided that the area, yard and other requirements of this chapter are met for each structure as though it were on an individual lot.

4. Height Regulation Exception. The height limitations contained in the schedules of district regulations do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above the roof level and not intended for human occupancy.

5. Use of public Right-of-way. No portion of the public road, street or alley right-of-way shall be used or occupied by an abutting use of land or structure for storage or display purposes or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

6. Proposed Use not Covered in Chapter. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Commission for a recommendation as to the proper district in which such use should be

permitted and the chapter amended as provided in Section 165.38 before a permit is issued for such proposed use.

7. Buildings to Have Access. Every building hereafter erected or structurally altered, shall be on a lot or parcel having a frontage on a public street or road.

8. Mobile Homes or Trailers. Mobile homes occupied as a permanent or temporary place of residence shall be located only in an approved mobile home park or mobile home subdivision unless otherwise provided in this chapter and occupied travel trailers and camping trailers shall be located only in an approved tourist or trailer campground.

9. Hedges and Fences. Fences or hedges in residential districts shall not exceed four (4) feet in height in any required front yard and fences shall not exceed six (6) feet in height in any required side or rear yard, subject to the further restriction of subsection 1 above. Fences shall be built wholly on the owner's property unless it is otherwise agreed with the owner of the adjacent property, and hedges shall not be planted closer than two and one-half (2½) feet to any property line. All outdoor swimming pools shall be fenced to prevent unauthorized access by small children and to provide a degree of security. Such fence shall be an "unclimbable fence," which means a solid wall, chain-link fence, or other fence of sufficient strength and durability and design to render such pool inaccessible to children. In the case of in-ground pools, this shall be accomplished using a fence or wall not less than six (6) feet in height, located not less than five (5) feet from each side of such pool. In the case of above-ground pools, a combination of fence or wall and the water-enclosing wall of the swimming pool may be used, providing that the pool is reasonably secure and the effective enclosure height is not less than six (6) feet. For all swimming pools, any opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use. This section is applicable to pools in excess of five thousand (5,000) gallons.

10. Floodplain Construction. No building shall be located in a floodplain or waterway within the City if, after due consideration has been given to (i) the reasonable anticipated volume of water delivery to the proposed site, (ii) modifications made to provide for the disposal of excess water, and (iii) the type of structure to be erected, the Zoning Administrative Officer determines that special and unnecessary risks and hazards to the proposed structure would exist.

11. Satellite Receiving Antenna.

A. No person shall place, erect, construct, or install any satellite dish without first obtaining a building permit.

B. Any satellite receiving antenna hereafter constructed in a residential zoning district shall be mounted on the ground at a height no greater than the peak of the roof of the residence located on the lot on which the antenna is to be located. If there is no residence on the lot in which the antenna is to be located, the height shall be controlled by the residence on the lot nearest to the lot on which the antenna will be located. In no event shall the height be greater than fifteen (15) feet. The height of the antenna shall be measured vertically from the highest point of the signal receiving apparatus, when positioned for operation, to the bottom of the base which supports the antenna.

C. No satellite receiving antenna shall be mounted, located or placed permanently or temporarily in any residential zoning districts in any front yard and the portion of the side yard that is adjacent to the principal structure on the lot, and not within five (5) feet of the lot lines in the remaining side yard and rear yards.

D. No satellite receiving antenna in residential districts shall be greater than twelve (12) feet in diameter.

E. Satellite receiving antennas mounted on trailers or vehicles may be allowed for a period not to exceed fifteen (15) days. All others shall be permanently placed.

F. Notwithstanding the provisions of this section, a satellite receiving antenna may be mounted to a residential dwelling so long as any and all structural requirements of the currently adopted edition of the Uniform Building Code are adhered to and followed. However, the top of the building mounted antenna shall not be higher than the peak of the roof of such building, and the antenna shall not be located on the side or front of the residence.

12. Parking regulations.

A. For use in this subsection, the following definitions are given:

(1) "Front yard" means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, and on corner lots the front yard shall be considered the yard adjacent to the street upon which the lot has its least dimension.

(2) "Vehicle" includes, but is not limited to, motorized vehicle, travel trailer, camping trailer and boat.

B. No person shall park, store or permit the parking or storage of any vehicle in the front yard of a one- or two-family dwelling for more than forty-eight (48) consecutive hours except on a driveway.

C. No person shall park, store or permit the parking or storage of more than four (4) vehicles in the combined side and rear yards of a one- or two-family dwelling unless such parking or storage is on a driveway or in an enclosed building or garage.

D. No one- or two-family dwelling with a one- or two-car garage shall have more than twenty-five percent (25%) of the front yard used for driveway parking purposes. However, this restriction shall not prohibit the construction of a twenty (20) foot wide driveway. One- and two-family dwellings that have a three (3) or more car garage shall be subject to the discretion of the Building Official.

13. Outdoor Storage of Race Cars.

A. For purposes of this subsection "race car" means stock car, race car, race truck, figure eight car, demolition derby car, drag race car, off-road race car or sprint car. In any residential or agricultural zoning district it is unlawful for any person to store outside, accumulate outside or allow to remain outside any race car, whether on or off a trailer, on any private property within the corporate limits of the City. Notwithstanding the foregoing, race cars are allowed to

be parked outside on private property for a period of no more than twenty-four (24) consecutive hours.

B. The provisions of this subsection do not apply to one, two, three or four operable race cars which can be moved under their own power if they are in a rear yard as defined by Section 165.03(53) or if they are in a side yard as defined by Section 165.03(54) and they are completely covered by a factory designed and manufactured fitted car cover. In no event shall the number of covered race cars and other vehicles permitted by Section 165.10(12)(C) exceed a total of four in the combined side and rear yards.

C. The provisions of this subsection do not apply to one operable race car which can be moved under its own power if it is parked in a front yard as defined by Section 165.03(52) and it is completely covered by a factory designed and manufactured fitted car cover as long as the race car is parked on a driveway.

(Ord. 1432 – Sep. 09 Supp.)

14. Townhome lots are allowed only in R-3 (Mixed Residential) and R-5 (Planned Residence Development) and must be associated with multi-family uses and in conjunction with a townhome association.

(Ord. 1415 – Aug. 08 Supp.)

15. Temporary or Seasonal Structures. These regulations are intended to prescribe the conditions under which a limited duration of agricultural and commercial activities (e.g. garden centers, drink and food vendors, tents and storage structures) may exist. The intent of this subsection is to allow the display and marketing of merchandise and seasonal structures in an attractive manner to serve the desires of the general public, but prevent creation of any nuisance or annoyance to the occupants of adjacent buildings, premises, or property and the general public. The following structures are qualified for a temporary installation, provided they meet the associated criteria.

A. Retail sales of landscape and nursery material, provided structure is not installed in a required front yard and is placed no

earlier than March 1st and removed by October 1st of the same calendar year.

B. Construction offices and trailers used on site and in conjunction with an active construction site and removed within 30 days after completion of the project.

C. Retail sales of seasonal decorative agriculture products with a maximum time period of 6 weeks in a calendar year.

D. Parking lot sales, sidewalk sales (private sidewalks only), clearance sales or other temporary structures, which are similar to the uses listed within the zoning classification for a maximum time period of 60 days per calendar year.

E. Stands for the sale of agriculture products are not placed in a required front yard or removed daily for a maximum time period of 60 days per calendar year.

F. Temporary food or beverage structures, for special community events only, with a maximum time period of the duration of the community event plus one day before and one day after the event.

(Ord. 1470 – May 11 Supp.)

165.11 APPLICATION OF DISTRICT REGULATIONS. Subject to Section 165.09, the regulations and restrictions of this chapter shall apply as follows:

1. Regulations to be Uniformly Applied. The regulations set by this chapter shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.

2. All Uses and Structures to Conform. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

3. Height, Density or Yards Shall not be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required or in any other manner contrary to the provisions of this chapter.

4. Separate Yards, Open Space and Off-street Parking Required. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

5. Minimum Yards and Lot Areas May not be Reduced. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established by this chapter.

6. New Areas Annexed to City. All territory which may hereafter become a part of the incorporated area of the City shall be reviewed by the Planning and Zoning Commission prior to annexation for the most appropriate use. The proposed zoning classification may be determined by reviewing the existing uses of the land provided such uses are listed as a permitted principal use within the zoning ordinance. The future land use map within the current comprehensive plan should be used for land that is undeveloped as well as the availability of public water and sanitary sewer services. The Commission may recommend the appropriate zoning district classification prior to such territory becoming a part of the City and upon the holding of a public hearing and approval by the Council, the territory, upon becoming part of the City, may be immediately so classified.

(Ord. 1272 – Feb. 04 Supp.)

7. Parking Spaces. No parking space required by this chapter shall be provided in any required front yard in a residential district and no required parking space, driveway, or any merchandise display or exterior storage shall be provided in any required front yard or in the first five (5) feet inside the property line of any required side or rear yard in a C-2 district.

(Ord. 1252 – Aug. 03 Supp.)

8. Off-street Parking. All off-street parking for new one- and two-family dwellings shall conform with Section 166.04(2)(F) of this Code of Ordinances.

9. Vegetation. All new one- and two-family dwellings are required to plant and maintain four (4) shrubs and two (2) trees. Also, all disturbed areas of the lot must either be sodded or seeded prior to occupancy of the residence. If seeding is chosen, a seedbed with a minimum of 80% perennial grass is required. The entire lot must have an established lawn and be 95% weed free within ninety (90) days of occupancy of the dwelling. When seeding adjacent to any previously established lawn, soil erosion controls identified in the Statewide Urban Design and Specification (SUDAS) shall be required. The seeding requirement does not replace any recorded covenant mandating sod. The Director of Community Development may temporarily waive the sod or seed requirements if improper weather conditions exist at the time of occupancy.

(Ord. 1442 – Jan. 10 Supp.)

165.12 NONCONFORMING USES. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before the Zoning Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. Subject to Section 165.09, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building

construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

165.13 NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted the single-family dwelling and customary accessory buildings may be erected as a variance on a single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding that such fails to meet the requirements for area or width or both that are generally applicable in the district where it is located. Yard dimensions and other requirements not involving area or width shall conform to the regulations for the district in which the lot is located. Such variance of area or width shall be permitted only after approval by the Board of Adjustment.

165.14 NONCONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

2. No such nonconforming use 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 chapter.

3. If any such nonconforming 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 chapter for the district in which such land is located.

165.15 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.

2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

165.16 NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the

proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

4. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and premises in combination is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure, thereafter, shall not be used except in conformance with the regulations of the district in which it is located.

6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

165.17 REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening of 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.

165.18 USES UNDER EXCEPTION PROVISIONS. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

165.19 NONCONFORMING USES TO REGISTER. The owner or operator of any use of land or use of a structure or use of land and structure in combination, which shall become nonconforming on the effective date of this chapter shall complete and file with the Administrative Officer a nonconforming use registration form, describing the use, the nature of its nonconformity, and the area of land or structure occupied on said date.

165.20 ADMINISTRATION AND ENFORCEMENT. An Administrative Officer designated by the Council shall administer and enforce this chapter. Said officer may be provided with the assistance of such other persons as the Council may direct. If the Administrative Officer finds that any of the provisions of this chapter are being violated, said officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Administrative Officer shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

165.21 APPEALS FROM DECISION OF ADMINISTRATIVE OFFICER. Appeals from any decision of the Administrative Officer may be taken to the Board of Adjustment as provided in section 165.32.

165.22 INTERPRETATION OF PROVISIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion and protection of the public health, safety, morals and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards, shall govern.

165.23 VIOLATION AND PENALTIES. Any person who violates or fails to comply with the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be subject to the standard penalty for violation of this Code of Ordinances

and shall pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues shall constitute a separate offense.

165.24 SEPARATE OFFENSES MAY BE CHARGED. The owners or tenants of any building, structure, land or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

165.25 INJUNCTION; MANDAMUS. If any building or structure is erected, constructed, reconstructed, altered, repaired or land is used in violation of this chapter, the City may, in addition to other remedies, institute injunction, mandamus, or other appropriate, lawful action necessary to prevent, correct, or abate such violation.

165.26 CONSTRUCTION COMPLIANCE CERTIFICATE. Subsequent to the adoption of this chapter a construction compliance certificate shall be obtained from the Administrative Officer before any building or structure shall be erected, reconstructed, or structurally altered to increase the exterior dimensions, height, or floor area, or remodeled to increase the exterior dimensions, height, or floor area, or remodeled to increase the number of dwelling units or accommodate a change in use of the building and/or premises or part thereof. The construction compliance certificate shall state that the proposed construction complies with all provisions of this chapter, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this chapter. A construction compliance certificate issued under this section shall lapse six (6) months from the date of its issuance unless construction has begun within that period and shall also lapse if construction is stopped after it is initiated for a period of time in excess of one hundred twenty (120) days. In the event that a construction compliance certificate lapses for either of the above reasons, a new certificate shall be required before construction can resume. This amendment shall apply to all outstanding building permits at the time of its adoption so that if construction is not commenced within six (6) months after the date of this amendment, the rights under the building permit shall lapse.

165.27 MULTIPLE-DWELLING CONSTRUCTION COMPLIANCE CERTIFICATES. Requests for construction of multiple-dwelling compliance certificates shall be examined by the Fire Chief or the designee of the Fire Chief, who shall make a recommendation for approval or disapproval to the Zoning Administrator who shall finally either approve or disapprove the request.

165.28 OCCUPANCY COMPLIANCE CERTIFICATE. Subsequent to the effective date of this chapter, no change in the use or occupancy of land nor any change in use or occupancy in an existing building, other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than a single-family dwelling until an occupancy compliance certificate has been issued by the Administrative Officer. Every occupancy compliance certificate shall state that the new occupancy complies with all provisions of this chapter and no subsequent modifications shall be made to the occupancy, use, or method of operation that would be in violation of this chapter. No single-, two-, or multiple-family dwelling or other structure designed for human use or occupancy shall be occupied nor shall any occupancy compliance certificate be issued for any of the foregoing until and unless all improvements and installations required by the subdivision regulation ordinance of the City of Indianola (Chapter 170) have been made and accepted by the City.

165.29 APPLICATION FOR COMPLIANCE CERTIFICATES. Applications for compliance certificates shall be made prior to beginning construction or assuming occupancy on fully completed application forms obtained from the Administrative Officer, accompanied by such plans and information necessary to determine that the proposed construction or occupancy complies with all applicable provisions of this chapter.

165.30 FEES. The Administrative Officer is directed to issue a construction compliance certificate and/or occupancy compliance certificate as required by this chapter for proposed construction, reconstruction or alteration which complies with all provisions contained herein and to charge a fee of five dollars ($5.00) for each construction compliance certificate or occupancy compliance certificate issued separately. Only one (1) five dollar ($5.00) fee shall be charged for a construction compliance certificate and certificate of occupancy issued

jointly. There shall be no fees charged to the United States Government, the State of Iowa, or any political subdivision thereof. All fees are required and shall be paid to the Administrative Officer, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the General Revenue Fund of the City.

165.31 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby established. The board shall consist of five (5) members to be appointed by the Council for staggered terms of five (5) years. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member.

165.32 PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the absence of the Chairperson, the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

165.33 HEARINGS, APPEALS AND NOTICE. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the Administrative Officer. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days, by filing with the Administrative Officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the

parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney. A fee of one hundred dollars ($100.00) shall be paid to the Administrative Officer at the time the notice of appeals is filed, which the Administrative Officer shall forthwith pay over to the credit of the General Revenue Fund of the City. ***(Ord. 1262 – Aug. 03 Supp.)***

165.34 STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with said officer, that by reason of facts stated in the certificate, a stay would, in such officer's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.

165.35 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT. The Board of Adjustment has the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this chapter.

2. Special Exceptions;. Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specially authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions with such conditions and safeguards as are appropriate under this chapter and to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special

exception is sought and stating the grounds on which it is requested.

B. Notice shall be given at least fifteen (15) days in advance of the public hearing by publication in a newspaper of general circulation in the City.

C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter and punishable under Section 165.23 of this chapter. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

3. Variances: Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(3) That the special conditions and circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in subsection 2(B) above.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board of Adjustment shall make findings that the requirements of paragraph A of this subsection have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.23 of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.36 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken. The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

165.37 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.

165.38 CHANGES AND AMENDMENTS. The regulations imposed in the districts created by this chapter may be amended from time to time by the Council, but no such amendment shall be made without public hearing before the Council and

after a report has been made upon the amendment by the Commission. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City. The Commission shall not make any recommendation to the Council until a sign eighteen (18) inches by twenty-four (24) inches indicating the zoning change requested has been prepared and posted by the City in a visible location on the premises for a period of fifteen (15) days. In case the Commission does not approve the change or, in the case of a protest filed with the Council against a change in district boundaries signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent thereto and within two hundred (200) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the Council.

165.39 APPLICATION FOR CHANGE OF ZONING DISTRICT BOUNDARIES. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning district map. Such application shall be filed with the Administrative Officer accompanied by a fee of two hundred dollars ($200.00) and shall contain the following information: ***(Ord. 1262 – Aug. 03 Supp.)***

1. The legal description and local address of the property.

2. The present zoning classification and the zoning classification requested for the property.

3. The existing use and proposed use of the property.

4. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.

5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

6. A plat showing the locations, dimensions and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.

7. If the requested zoning change is from A-1 (Agricultural) to any other classification, the application shall contain the number of acres in each soil type for which a rezoning change is requested and the crop suitability rating of each. The soil type and its crop suitability rating shall be determined by the latest cooperative soil survey and accompanying data.

8. Prior to rezoning any property the Planning and Zoning Commission and the City Council shall consider the following relative to orderly regulated development: adequate size and location of public sanitary sewer, adequate size and location of public water and the presence of existing hard surfaced streets. Nothing in this chapter shall be construed to mean the City has any regulatory power for property used for agricultural purposes outside the City limits.

(Ord. 1431 – Sep. 09 Supp.)

All fees shall be deposited to the General Revenue Fund of the City. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 165.06 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED
344	March 2,1970	497	September 2, 1975
346	April 6, 1970	498	September 2, 1975
347	April 6, 1970	502	January 5, 1976
350	April 20, 1970	503	January 5, 1976
352	July 27, 1970	505	March 1, 1976
355	November 2, 1970	507	April 5, 1976
356	December 7, 1970	510	May 17,1976
357	December 7, 1970	512	June 21, 1976
358	December 7, 1970	513	July 6, 1976
359	December 7, 1970	514	July 19, 1976
360	January 4, 1971	515	August 16, 1976
362	January 18, 1971	516	August 16,1976
363	January 18, 1971	521	September 7, 1976
364	February 15, 1971	522	September 7, 1976
365	April 5, 1971	524	November 15,1976
373	June 21, 1971	525	November 15, 1976
375	July 6,1971	526	November 15,1976
376	August 2, 1971	529	December 6, 1976

377	October 4, 1971	538	May 2,1977
380	October 4, 1971	539	May 2,1977
396	March 6,1972	543	May 16, 1977
398	April 3, 1972	544	June 6, 1977
404	August 7, 1972	545	June 6, 1977
428	May 21,1973	546	June 6,1977
429	May 21, 1973	547	June 6, 1977
430	May 21, 1973	553	July 5, 1977
437	June 18, 1973	555	August 1, 1977
438	June 18,1973	556	August 1, 1977
439	June 18, 1973	557	August 1, 1977
449	September 17, 1973	558	August 1, 1977
464	June 3, 1974	559	August 1, 1977
465	June 17,1974	561	October 10, 1977
468	July 1, 1974	562	November 7, 1977
469	July 15, 1974	571	January 16, 1978
470	July 15,1974	572	February 6, 1978
481	January 20, 1975	573	February 6, 1978
484	April 7, 1975	574	February 6, 1978
487	May 19, 1975	577	March 20, 1978

SCHEDULE OF ORDINANCES AMENDING ZONING MAP			
ORDINANCE NO.	**DATE ADOPTED**	**ORDINANCE NO.**	**DATE ADOPTED**
580	June 5, 1978	722	July 18, 1983
583	June 19, 1978	723	September 19, 1983
584	June 19, 1978	724	September 19, 1983

591	July 17, 1978	728	January 16, 1984
601	October 16, 1978	730	February 6, 1984
602	October 16, 1978	733	February 21, 1984
603	October 16, 1978	753	April 16, 1984
604	October 16, 1978	764	September 17, 1984
606	November 6, 1978	768	March 18, 1985
608	December 18, 1978	775	June 17, 1985
614	March 19, 1979	776	July 1, 1985
615	April 16, 1979	778	July 17, 1985
616	April 16, 1979	779	July 17, 1985
617	May 7, 1979	782	October 21, 1985
618	May 7, 1979	788	February 18, 1986
619	May 7, 1979	789	March 3, 1986
625	July 2, 1979	799	August 18, 1986
626	July 16, 1979	811	May 18, 1987
629	August 20, 1979	819	October 19, 1987
630	August 20, 1979	822	November 16, 1987
631	August 20, 1979	826	December 7, 1987
652	February 19, 1980	842	August 1, 1988
653	February 19, 1980	853	January 3, 1989
654	February 19, 1980	854	January 3, 1989
657	April 7, 1980	864	May 1, 1989
661	April 7, 1980	867	June 5, 1989
663	September 15, 1980	868	June 5, 1989
665	November 11, 1980	869	June 19, 1989
668	January 5, 1981	880	October 30, 1989
673	April 20, 1981	882	November 6, 1989
676	May 18, 1981	883	November 6, 1989

677	May 18, 1981	899	August 6, 1990
680	August 17, 1981	900	August 20, 1990
682	August 17, 1981	906	September 17, 1990
686	October 19, 1981	915	December 3, 1990
687	October 19, 1981	921	February 11, 1991
690	December 7, 1981	922	March 25, 1991
691	December 7, 1981	931	June 3, 1991
695	January 18, 1982	934	July 15, 1991
696	January 18, 1982	937	August 5, 1991
697	February 16, 1982	944	September 16, 1991
709	March 10, 1983	964	April 20, 1992
712	May 2, 1983	972	July 20, 1992

SCHEDULE OF ORDINANCES AMENDING ZONING MAP			
ORDINANCE NO.	**DATE ADOPTED**	**ORDINANCE NO.**	**DATE ADOPTED**
973	August 4, 1992	1210	August 20, 2001
980	October 19, 1992	1233	September 16, 2002
1004	March 15, 1993	1236	October 7, 2002
1005	April 19, 1993	1251	June 16, 2003
1010	August 16, 1993	1253	July 7, 2003
1019	February 22, 1994	1256	July 21, 2003
1032	September 19, 1994	1264	September 15, 2003
1033	October 3, 1994	1270	December 1, 2003
1038	January 3, 1995	1273	December 15, 2003
1040	January 16, 1995	1274	January 5, 2004
1046	May 1, 1995	1283	May 17, 2004
1052	August 21, 1995	1311	February 22, 2005
1054	September 19, 1995	1312	February 22, 2005
1056	October 2, 1995	1324	March 21, 2005
1061	December 18, 1995	1332	June 6, 2005
1062	December 18, 1995	1335	July 18, 2005
1078	June 17, 1996	1341	November 7, 2005
1083	August 5, 1996	1342	November 7, 2005
1089	October 21, 1996	1357	May 1, 2006
1095	January 6, 1997	1377	March 19, 2007
1096	January 6, 1997	1378	March 19, 2007
1105	July 21, 1997	1383	July 2, 2007
1110	August 18, 1997	1423	February 2, 2009

1122	January 12, 1998	1433	June 1, 2009
1123	January 12, 1998	1436	July 6, 2009
1131	June 8, 1998	1462	October 18, 2010
1132	July 20, 1998	1465	December 20, 2010
1134	August 17, 1998	1494	April 16, 2012
1139	December 7, 1998	1496	May 7, 2012
1149	June 21, 1999	1502	October 1, 2012
1152	August 2, 1999	1503	October 1, 2012
1155	September 7, 1999	1509	February 4, 2013
1157	September 20, 1999	1522	July 1, 2013
1163	January 18, 2000		
1166	February 22, 2000		
1171	June 5, 2000		
1172	June 5, 2000		
1178	August 21, 2000		
1179	August 21, 2000		
1185	December 18, 2000		
1193	April 16, 2001		
1207	June 4, 2001		
1208	August 6, 2001		

SCHEDULE OF ORDINANCES AMENDING ZONING MAP			
ORDINANCE NO.	**DATE ADOPTED**	**ORDINANCE NO.**	**DATE ADOPTED**

[The next page is 1101]

CHAPTER 166

SITE PLAN

166.01 Purpose

166.02 Initial Procedure

166.03 Required Information

166.04 Specific Design Standards Required

166.05 General Design Policies

166.06 Alternate Method for Approval of Site Plan

166.07 Action on Site Plan; Procedures

166.08 Site Plan Amendment

166.09 Appeals; Plan Resubmittal

166.10 Validity of Approval

166.11 Highway Corridors

166.12 Professional Assistance

166.13 Violation; Additional Remedies

166.01 PURPOSE. It is the intent and purpose of this chapter to establish a procedure which will enable the City of Indianola to plan for and review certain proposed improvements of property within specified zoning districts of the City in order to accomplish the following:

1. Promote and permit flexibility that will encourage a more creative and imaginative approach in development and result in a more efficient, aesthetic, desirable and economic use of land;

2. Provide minimal effect upon adjacent properties and existing development. To this end, the Planning and Zoning Commission may make appropriate requirements;

3. Promote development that can be conveniently, efficiently and economically served by existing municipal utilities and services or by their logical extension;

4. Provide for the enhancement of the natural setting through careful and sensitive placement of manmade facilities and plant materials;

5. Encourage adequate provision for surface and subsurface drainage in order to assure that future development of other areas of the City will be available;

6. Provide suitable screening of parking, truck loading, refuse disposal, outdoor storage areas and noise from adjacent and nearby property.

166.02 INITIAL PROCEDURE. Whenever any person proposes to develop or build on any tract or parcel of land for which a building permit is required within the R-2 (Single-Family Residential), R-3 (Single and Two-Family Residential), R4 (Mixed Residential), C-2 (Highway Commercial), C-3 (General Retail and Office), M-1 (Limited Industrial), M-2 (General Industrial) and A-1 (Agricultural) district for any use except:

1. Agricultural buildings used only for farming purposes such as: livestock-dairy-grain in excess of twenty (20) or more acres;

2. One- and two-family dwellings;

3. All principal and accessory buildings less than one hundred fifty (150) square feet in total floor area;

4. No more than two additions to existing one-story buildings in the amount of fifty percent (50%) or less of its existing ground cover and/or total floor area, or in an amount less than one thousand (1,000) square feet, whichever is less, from the effective date of the Site Plan Ordinance. ***(Ord. 1389 – Feb. 08 Supp.)***

that person shall submit to the Building Official a site plan which shall consist of an overhead view of the proposed site and contain all of the required information hereinafter set out, and adopt the design standards hereinafter specified unless waived by the Building Official.

166.03 REQUIRED INFORMATION. Site plans which are submitted for review shall be drawn to a scale of 1 inch = 50 feet or larger and shall include as a minimum the following items of information, unless otherwise waived by the Building Official:

1. Legal description and address of the property to be developed.

2. Name and address of the record property owner, the applicant and the person preparing the site plan.

3. Existing zoning classification.

4. Date of preparation, north point and scale.

5. Existing and proposed utility lines and easements.

6. Where possible ownership or boundary problems exist, as determined by the Building Official, a property survey by a licensed land surveyor shall be required.

7. Total number and types of buildings and location proposed; proposed uses for all buildings; total floor area of each building, estimated number of employees for each proposed use, where applicable; and any other information which may be necessary to determine the number of off-street parking and loading spaces required by the Zoning Ordinance.

8. Location and type of any existing and proposed signs and of any existing or proposed lighting on the property which illuminates any part of any required yard. All outside lighting is to be directed away from adjoining residential uses. If there is no outside lighting, the same should be indicated.

9. Location and description of fence, hedges, trees and shrubs or natural boundaries that are existing or proposed.

10. Downspout locations.

11. All required yard setbacks.

12. Complete traffic circulation and parking plan, where applicable, as determined by the Building Official, showing the location and dimensions of all existing and proposed parking stalls, loading areas, entrance and exit drives, dividers, planters and other similar permanent improvements. Indicate the total square footage of impervious surface area. Areas include primary and accessory structures, driveways, parking lots, private walks and any other area in nature that would be considered impervious surface area. ***(Ord. 1504 – Nov. 12 Supp.)***

13. A plan to be implemented at the time of or prior to construction, which will eliminate excessive and unnecessary soil erosion, both during and after construction.

166.04 SPECIFIC DESIGN STANDARDS REQUIRED.

1. On approval by the Building Official, building permits may be issued, as long as all other requirements of the City, State and County are met, and construction may commence.

2. In order for the Building Official to approve a site plan application, the following specific design standards must be met:

A. The plan must provide for adequate routing of downspout discharge, footing drain discharge and parking lot runoff.

B. Storm water may not be directed out driveways into the City right-of-way, except where permitted by City. Storm water shall be collected and piped to a storm sewer where a storm sewer is available within three hundred (300) feet from the property line. The storm sewer system's pipes and intakes shall be capable of conveying runoff from a five-year recurrence interval storm from the site and tributary upstream areas. Storm water runoff calculations shall be made utilizing the Soil Conservation Service methods as presented in *Technical Release No. 55, Urban Hydrology for Small Watersheds, Soil Conservation Service, U.S. Department of Agriculture*. The Building Official may waive this requirement, provided the area to be developed is less than ten thousand (10,000) square feet. The calculations shall be certified by an engineer, architect or landscape architect registered in the State of Iowa and familiar with such calculations.

C. Existing overland drainage courses must be maintained and improved to provide capacity to convey the runoff from a one hundred-year recurrence interval storm across the site. Storm water runoff shall be computed on the basis of a fully developed drainage basin, using the method prescribed in paragraph B of this subsection. No reduction in the required overland drainage course capacity will be made due to use of storm sewers or storm water detention facilities. Easements for the overland drainage course must be prepared by the developer and conveyed to the City.

D. Storm water detention is required for all sites larger than one acre in size, unless it is determined by the Building Department to be unnecessary or

impractical. The maximum allowable discharge rate from the storm water detention facility will be limited to that from a five-year return frequency storm after development of the site or to the proportionate capacity of existing downstream sewers and drainageways during a five-year storm which was utilized by the runoff from the site prior to the development, whichever discharge rate is less. Storm water runoff and storm water detention facilities shall be determined using the method prescribed in paragraph B of this subsection. The discharge rate shall be controlled at the detention facilities outlet(s) and not in the storm sewer size serving the site.

E. To help alleviate erosion and maintenance problems, recommended maximum ground slope is to be 3:1, desirable being 4:1.

F. Parking lots and access shall be hard-surfaced, limited to a maximum slope of six percent (6%) in a direction perpendicular to the car. Driveways shall not exceed a ten percent (10%) slope. Where portland cement concrete pavement is used, the pavement shall comply with the materials and be constructed in such a manner as to provide an equivalent finished product as specified in the most current Standard Specifications for Highway and Bridge Construction, Iowa Department of Transportation, utilizing a "Class C Concrete" mix Class 2 or 3 durability coarse aggregate. Where asphaltic cement concrete pavement is used, the pavement shall comply with the materials and be constructed in such a manner as to provide an equivalent finished product as specified in the Standard Specifications for Highway and Bridge Construction, Iowa Department of Transportation. The pavement shall utilize nonrecycled virgin material which shall include Type B base and Type A surface courses and which shall comply with the most current Iowa Department of Transportation job-mix formula. Where asphaltic cement concrete is placed on a crushed stone base, the base shall comply with an approved Iowa Department of Transportation Class A or B crushed stone base material and gradation. All hard-surfacing shall be constructed on a prepared uniform subgrade compacted to ninety-five percent (95%) of maximum density (Standard Proctor Density). The parking lot and driveway design shall meet or exceed the following minimum paving thickness requirements:

	Full Depth Asphaltic Cement Concrete	*Asphaltic Cement Concrete Over Crushed Stone Base*

Parking Lot	*Type B Base*	*Type A Surface*	*Crushed Stone*	*Type B Base*	*Type A Surface*	*Portland Cement Concrete*
Parking Lots 50 Stalls or Less	3 inches	2 inches	6 inches	0 inches	3 inches	4 inches
Parking Lots More than 50 Stalls Except Loading Dock or Drive Areas with Bus or Truck Traffic	3 inches	3 inches	6 inches	0 inches	4 inches	5 inches
Loading Dock Area	NOT ACCEPTABLE			NOT ACCEPTABLE		7 inches
Driveway Areas with Bus or Truck Traffic	6 inches	2 ½ inches	6 inches	3 inches	3 inches	6 inches

G. The number of curb drops/driveway approaches in residential areas shall be limited to eighteen (18) feet to thirty (30) feet in width and thirty (30) feet apart. Commercial or industrial areas, accesses are limited to eighteen (18) feet to forty (40) feet in width.

H. Vision clearances are to be provided for private drives where they intersect public streets. No fence, wall, hedge, or other plantings or structures that will obstruct the vision between the height of three (3) feet and ten (10) feet above grade, and within the first ten (10) feet of the required yard and within twenty-five (25) feet of either side of the driveway access.

I. Minimum ten percent (10%) natural green space is required, excluding City and State rights-of-way. Paved areas are to be minimized to reduce runoff. All disturbed or unused portions of the site, where sod or approved landscaping has not been placed, are to be seeded and 95% free of weeds within ninety days of occupancy. ***(Ord. 1325 – Aug. 05 Supp.)***

J. The following conditions shall require a buffer yard between abutting districts and uses: Whenever any person or firm develops or builds on any tract or parcel of land for which an official site plan is required within a C-1 (Shopping Center District), C-2 (Highway Commercial), C-3 (General Retail and Office), C-4 (Planned Commercial District), M-1 (Limited Industrial) or M-2 (General Industrial) which is adjacent to an A-1 (Agricultural), R-1 (Single-Family Residential), R-2 (Single- and Two-Family Residential), R-3 (Mixed Residential), R-4 (Multiple-Family Residential), R-5 (Planned Residential) or R-6 (Mobile Home Residential) zoning classification, the tract or parcel of land shall have a buffer yard adjacent to the A-1, R-1, R-2, R-3, R-4, R-5 or R-6 zoning classification.

Whenever a person or firm develops or builds a permitted use on any tract or parcel of land within a residential zoning classification, a buffer complying with section 166.04(2)(J) shall be installed when development occurs adjacent to more than one single family dwelling lot when any of the conditions listed below exist.

(1) The required off-street parking for the new improvement exceeds four stalls.

(2) Each dwelling unit does not have its own independent vehicle access to the City right-of-way.

EXCEPTION. If the principal structure, driveway or parking area is constructed a minimum distance of 100' from the adjoining property line, no buffer is required.

(Ord. 1498 – Aug. 12 Supp.)

Buffer yards required under the provisions of this subsection shall be accomplished by any one of the following methods:

(1) A buffer yard of twenty (20) feet or less in width with a five-foot high earth berm for the entire length of the lot; and three (3) overstory trees, six (6) understory trees and fifteen (15) shrubs per one hundred (100) lineal feet; or

(2) A buffer yard more than twenty (20) feet in width with five (5) overstory trees, ten (10) understory trees and ten (10) shrubs per one hundred (100) lineal feet; or

(3) A six-foot high double-face opaque wooden fence; or a six-foot high masonry wall, to be constructed with face brick, stucco or a similar finished surface toward the A-1, R-1, R-2, R-3, R-4, R-5 or R-6 zoning classification.

The City Council reserves the right to waive or modify to a lesser restriction any provision or requirement of buffer yards contained herein, provided a favorable report on such change is recommended by the Planning and Zoning Commission and approved the by Council, and further provided, said waiver or modification does not adversely affect the intent of these regulations to adequately safeguard the general public and surrounding property.

166.05 GENERAL DESIGN POLICIES. In addition to the specific design standards as stated above, each site plan presented shall comply with the following general design policies, and the Building Official may refuse to grant approval to a site plan even though it complies with the specific design standards if, in the opinion of the Building Official, it does not comply with the general design policies as hereinafter enumerated. Any site plan presented shall be designed in such a way as to insure the orderly and harmonious development of property in such a manner as will safeguard the public's health, safety and general welfare, as hereinafter set out.

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 for what they were designed nor increase the danger of erosion, flooding, landslide or other endangerment of adjoining or surrounding property.

2. 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, illuminations of required perimeter yards, refuse containers and impairment of natural light and impairment or pollution of air. For the purpose of this section, the term "use and enjoyment of adjoining property" means 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" means those uses permitted under the zoning districts in which such adjoining property is located.

3. The proposed development shall have such entrances and exits upon adjacent streets and such internal traffic circulation pattern as will not unduly increase congestion on adjacent or surrounding public streets.

4. To such end as may be necessary and proper to accomplish the standards in subsections 1, 2 and 3 of this section, the proposed development shall provide fences, walls, screening, landscaping, erosion control or other improvements.

5. The proposed development shall conform to all applicable provisions of the laws of the State of Iowa, and all applicable provisions of this Code of Ordinances.

166.06 ALTERNATE METHOD FOR APPROVAL OF SITE PLAN. If the Building Official does not approve the site plan as presented and the applicant is unable or unwilling to meet the above criteria and specific design standards or provide the information as required, the applicant shall have the option of submitting the site plan to the Planning and Zoning Commission and Council for their review, in accordance with the following provisions: Applicant shall cause to be prepared a site plan for such development and submit a reproducible medium and three (3) copies to the Building and Zoning Department. The site plan shall be accompanied by a cover letter requesting review and approval of said plan and by a receipt from the Clerk's office as proof of payment of the application fee which is as follows:

Site plan review — one acre or less ..... $ 35.00

Site plan review — more than one acre ..... $ 70.00

The site plan shall contain all of the information required by Sections 166.03 and 166.04 of this chapter and, in addition, shall contain the following supplemental information:

1. Existing and proposed contours at an interval not to exceed two (2) feet, provided that at least two (2) contours shall be shown.

2. Location, shape, exterior dimensions and number of stories of each existing building to be retained and of each proposed building.

3. A vicinity map at a scale of one inch equals four hundred (400) feet or larger, showing the general location of the property.

4. Soil tests and similar information, if deemed necessary by the Building Official to determine the feasibility of the proposed development in relation to the design standards set forth in this chapter.

5. In case of any conflicting requirements between the this chapter and any existing ordinance of the City, the more restrictive requirement shall be met.

EXCEPTION: C-1, C-4, R-5 and R-6 zoning restriction shall apply.

166.07 ACTION ON SITE PLAN; PROCEDURES.

1. Within forty-five (45) days after receiving the application for site plan review as required by Section 166.02 of this chapter, plus the supplement thereto as required by Section 166.03, the Planning and Zoning Commission shall recommend to the Council to either approve, approve subject to conditions, or disapprove the site plan. Failure by the Commission to act within the time specified herein shall be deemed recommendation for approval of the site plan as submitted, provided that the site plan has been presented to a quorum of the Commission and that the plan as submitted does not conflict with any existing ordinance, statute, rule or law affecting the subject property, and provided further that if additional information is required by the Building Official pursuant to Section 166.03 of this chapter, the time period specified above shall not commence until such information has been filed with the Building and Zoning Department.

2. The Building Official shall promptly notify the applicant in writing of any revisions or additional information needed as required by Sections 166.03 and 166.05. If necessary, the applicant shall make revisions and resubmit the revised plan to the Building Official for acceptance. If the site plan complies with requirements set forth in this chapter, the applicant's plan shall be submitted on reproducible medium to the Planning and Zoning Commission for recommendation to the Council for approval, disapproval or approval subject to conditions.

3. A mylar of the plan with all changes recommended by the Commission, if any, shall be submitted to the Building Official. Upon recommendation from the Commission to the Council, the applicant's plan will be put on the agenda for the next regularly scheduled Council meeting, for final approval or disapproval by the Council. If the Council rejects the plan, they will advise the owner or developer of

any changes which are desired or that should have consideration before approval will be given. The applicant shall then submit the revised original for certification by the Council. The Planning and Zoning Commission and the Council, in approving or disapproving any site plan and in making recommendations for alterations or amendments to the site plan as presented, shall be governed by the general policies as set out by this chapter in Section 166.05 and the purpose of this chapter as set out in Section 166.01.

166.08 SITE PLAN AMENDMENT. Any approved site plan may be amended in accordance with the standards and procedures established herein. The Building Official may approve those amendments which are consistent both with the specific design standards set out in Section 166.04 and the general design standards set out in section 166.05. If the Building Official does not approve amendments, the applicant may resubmit amendments under Section 166.07. Any amendments, however, shall not be made unless the prior written approval for such amendment is obtained from the Building Official. No fees are required for an amendment.

166.09 APPEALS; PLAN RESUBMITTAL. Any person, board, department or bureau aggrieved by any final decision of the Council or Building Official relative to a site plan may seek review by a court of record of such decision. A site plan that has been denied by the Council may be resubmitted by the applicant to the Building and Zoning Department, pursuant to the terms of this chapter and upon payment of appropriate fees. Fees will also be required for plans that have expired under Section 166.10.

166.10 VALIDITY OF APPROVAL. A site plan shall become valid upon certification of approval by the Building Official, where said official has made approval under the provisions of Section 166.04, or upon approval by the Council pursuant to Section 166.07. In the event that an appeal is filed, a site plan shall not become valid until all appeals have been decided. The approval of any site plan required by this chapter shall remain valid for two (2) years after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this chapter, “actual construction” means that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

166.11 HIGHWAY CORRIDORS.

1. Purpose. The purpose of the architectural design standards found in this section is to recognize the importance of Highways 65-69 and 92 to the City's image and future development, to establish specific design guidelines for all development within the enforcement areas and to avoid the construction of structures which have the general appearance of farm machine sheds. Improvement of the highway corridors through Indianola should be undertaken by devising an overall long range plan. The plan must focus on unifying and enhancing the appearance not only of the public right-of-way but also of the private property abutting it.

2. Enforcement Area. All improvements and/or developments that are subject to the requirements of this chapter and are property zoned C-2 (Highway Commercial), A-1 (Agricultural), R-1 (Single-Family Residential), R-2 (Single and Two-Family Residential, R-3 (Mixed Residential) and M-2 (General Industrial). ***(Ord. 1441 – Jan. 10 Supp.)***

3. Design Standards.

A. A minimum of one hundred percent (100%) of the building wall surface that faces Highway 65-69 or 92 shall consist of full natural brick, exterior finish insulation system (E.F.I.S.), culture stone and/or masonry veneer with a minimum of 1.5" in thickness that is mechanically fastened to the exterior of the building structure, pre-cast concrete walls (except smooth finish pre-cast concrete walls) and/or an approved panelized fiber system with a minimum thickness of 5/8", self-draining and mechanically fastened to an exterior or split-faced concrete masonry units. Those walls that adjoin a wall that fronts Highways 65-69 or 92 shall consist of thirty percent (30%) full natural brick, exterior finish insulation system (E.F.I.S.), culture stone and/or masonry veneer with a minimum of 1.5" in thickness that is mechanically fastened to the exterior of the building structure, pre-cast concrete walls (except smooth finish pre-cast concrete walls) and/or an approved panelized fiber system with a minimum thickness of 5/8", self-draining and mechanically fastened to an exterior or split-faced concrete masonry units. Said 30% shall be for the entire depth of the walls at ground level and shall not be achieved in a vertical configuration. On corner lots, all walls that face the side street shall comply with the requirements of this paragraph regarding walls that face highways. Areas for glazing or overhead doors (or similar doors for vehicle entrances only) shall be excluded from the total wall area in making this determination. If E.F.I.S. is being utilized for more than 50% of the total wall surface, architectural accenting consisting of a minimum of 20% of the wall surface is required. The use of colors, materials,

façade projections, recesses, articulated roof lines, enhanced entrances, lighting, windows and awnings can be used to make the improvement aesthetically companionable. This regulation shall not be construed to prevent the use of innovative materials or progressive structural designs. Plans or designs which deviate from the full natural brick, exterior finish insulation system (E.F.I.S.), culture stone and/or masonry veneer with a minimum of 1.5" in thickness that is mechanically fastened to the exterior of the building structure, pre-cast concrete walls (except smooth finish pre-cast concrete walls) and/or an approved panelized fiber system with a minimum thickness of 5/8", self-draining and mechanically fastened to an exterior or split-faced concrete masonry units requirements found in this paragraph may be submitted to the Planning and Zoning Commission and Council for their review and approval. The provisions of this paragraph also apply to all buildings with street frontage in Blocks 7, 8, 9, 12, 13, 16, 17 and 18, Original Town Plat, Indianola, Iowa.

(Ord. 1520 – Aug. 13 Supp.)

B. Unpainted metal siding is prohibited.

C. Section 166.04(2)(I) of this chapter requires a minimum of ten percent (10%) natural green space. In the highway corridors described in this section, fifty percent (50%) of the natural green space required by Section 166.04(2)(I) shall be located between the building and Highway 65-59 or 92. In lieu of the fifty percent (50%) natural green space requirement described above, an alternate landscape plan may be submitted under Section 166.06 of this chapter. The natural green space required by this section shall meet the following requirements:

(1) Minimum requirements: two (2) trees or two (2) trees per three thousand (3,000) square feet of green area.

10 percent .....3 - 3½ inch caliper

30- 40 percent.....2 – 2½ inch caliper

Balance .....8-10 foot bare root stock

(2) Minimum requirements: six (6) shrubs or three (3) shrubs per three thousand (3,000) square feet of green area.

(3) Enforcement. A landscaping plan shall be submitted for approval as part of the final site-plan submittal. The landscaping plan is to show the following:

(a) Location of trees and shrubs

(b) Size and species of trees and shrubs

(c) Percentage of each size of tree

(d) Type of ground cover and form of maintenance

Landscaping for screening purposes shall be illustrated in elevation and perspective. The size and exact names of plants, shrubs or trees to be planted shall be clearly indicated. Approval of in-place landscaping must be requested by developer at the time an occupancy permit is requested. Landscaping must be completed by October 15 to be considered for approval during a calendar year. Landscaping materials shall be planted as each phase of the site is developed. Should completion of landscaping be delayed because of the season of the year, a temporary occupancy permit may be issued if the developer posts a bond in the amount of the landscaping to be completed. At the developer's option and at the time of site-plan filing, the developer may submit a list of alternate or substitute species from the permitted or established list if the preferred species are not available when needed and required.

D. Loading areas and waste container areas shall be screened from public view or shall be located on the side or rear yard.

E. The architectural design standard requirements found in this section apply to additions to existing buildings except additions to existing buildings in the amount of fifty percent (50%) or less of its existing ground cover and/or total first floor area, all in an amount of less than one thousand (1,000) square feet, whichever is less. Whenever additions to existing buildings are subject to requirements of this section, then the existing building which received the addition shall also be subject to the same requirements.

F. A certificate of occupancy shall not be issued until all screening is in place. Its issuance is expressly conditioned on the proper maintenance and replacement, when necessary, of the screening. If the required plantings, at any time, fall below the plantings shown upon the approved site plan, the Council, upon reasonable notice and hearing, shall revoke the certificate of occupancy unless the deficiencies are corrected or replaced within a reasonable time to be set by the Council.

4. Downtown Area.

A. Purpose. To establish a means by which the City and individual building owners can evaluate buildings within the downtown area for rehabilitation suitability and to provide a series of options for subsequent action. Encouragement of architectural facades and the aesthetic impact of a variety of building images on the streetscape can lead to a more unified downtown district and the community as a whole.

B. Objectives.

- Reinforce the existing historical context and the architectural tradition of the downtown area as a unique and special pedestrian-oriented business district.

- Respect the past and develop the desired qualities that are already present.

- Reinforce the desired existing building proportions, rhythms and setback.

- Design or redesign building storefronts to provide better display, security, entry, signage and identity.

- Provide options for rehabilitation that allow multiple methods for façade development within a framework of common goals.

C. Downtown Design Standards. Requirement of Section 166.02 and subsequent sections of this chapter shall apply. The architectural standards shall apply to those buildings within blocks 7, 8, 9, 12, 13, 16, 17 and 18 of the Original Town Plat, Indianola, Iowa.

(1) A licensed architect design, which is complementary of the physical and building era characteristics already established along the streetscape such as height, width and its relationship with surrounding buildings.

(2) Exterior materials and design to be used shall follow the requirement of Section 166.06 Alternate Method of Approval of Site Plan.

(3) Prior to making a recommendation, Planning and Zoning Commission shall review the proposed improvement as it applies to its architectural design, the location, the design of adjacent buildings, the proposed number of stories and the exterior materials used on all walls visible to the public.

(Ord. 1426 – Sep. 09 Supp.)

166.12 PROFESSIONAL ASSISTANCE. The Council, the Planning and Zoning Commission or City staff may request such professional assistance as it deems necessary to properly evaluate the site plans as submitted. The owner or developer shall reimburse the City for the reasonable expenses incurred by the City for all contracted professional engineering or consulting services. Occupancy permits shall not be issued until the City is reimbursed for the expenses.

166.13 VIOLATION; ADDITIONAL REMEDIES. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and the imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violation or defects within a reasonable time, and when not otherwise specified, each thirty (30) days that prohibited conditions are maintained shall constitute a separate offense. In addition, the City may proceed in law or in equity to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct of business or use in or about such premises.

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CHAPTER 170

SUBDIVISION REGULATIONS

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170.01 TITLE. This ordinance shall be known and cited as the "Subdivision Regulation Ordinance of the City of Indianola, Iowa."

170.02 JURISDICTION. All plats of survey, plats, replats or subdivisions of land into three (3) or more parts for the purpose of laying out a portion of the City of Indianola, an addition thereto or suburban lots within two (2) miles of the corporate limits of the City for other than agricultural purposes shall be submitted to the Council and the Commission in accordance with the provisions of this chapter and shall be subject to the requirements established herein. This chapter shall regulate the subdividing of land within the City and all land within an area extending two miles beyond the corporate limits in accordance with the provisions of Section 354.9, Code of Iowa. ***(Ord. 1239 – Feb. 03 Supp.)***

170.03 PURPOSE. The purpose of this chapter is to provide for the harmonious development of the City and adjacent territory by establishing appropriate standards for streets, blocks, lots, utilities and other improvements, by promoting coordination with existing development, and by establishing procedures and conditions for the approval of subdivisions of land, in accordance with the comprehensive plan, all in the interest of the health, safety and general welfare of the community.

170.04 DEFINITIONS. For the purpose of this chapter, the following terms and words are hereby defined. The word "building" as used herein includes the word "structure."

1. "Alley" means a permanent public service way or right-of-way, designed to provide a secondary means of access to abutting property.

2. "Building line" means a line established on a plat as a restrictive covenant beyond which no building may be placed. The building lines need not correspond to the front, side, or rear yard requirement established in the Zoning Ordinance, and where they do not, the most restrictive requirement will control.

3. "Commission" means the Commission of Indianola, Iowa.

4. "City datum" — The official benchmark for the City is located northeast of the Warren County Courthouse on the square. The elevation of this benchmark is 968.91 feet above sea level.

5. "Cul-de-sac" means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

6. "Easement" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of such owner's property.

7. "Final plat" means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and the Commission, will be filed and recorded with the County Recorder.

8. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and the Commission for consideration.

9. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership.

10. "Street" means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for the public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, collector, parkway, avenue, road, lane, drive, place or other appropriate designation.

11. "Thoroughfare" means a street intended for cross-county or through traffic.

12. "Collector street" means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.

13. "Residential street" a street used primarily for access to abutting property.

14. "Commercial collector street" means a street used to carry traffic from residential collectors and thoroughfares to and through the commercial or business areas of the community.

15. "Street pavement" means the wearing or exposed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.

16. "Right-of-way" means the area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

17. "Subdivider" means any person who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for said person or others.

18. "Subdivision" means the division of a separate tract of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development or, if a new road is involved, any division of a parcel of land.

19. "Plat of survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

(Ord. 1239 – Feb. 03 Supp.)

170.05 PRELIMINARY PLATTING PROCEDURE.

1. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared, a plat of the subdivision containing the information specified herein and shall file twelve (12) copies with the Clerk.

2. Preliminary plats shall be filed with the Clerk at least fifteen (15) days prior to scheduled Commission meetings. Adjoining property owners shall be notified of preliminary plats by first class mail at least ten (10) days prior to Commission meetings.

3. The Clerk shall immediately transmit three (3) copies of the preliminary plat to the Commission for study and recommendation.

4. The Commission shall examine the plat as to its compliance with this chapter, and the comprehensive plan of the City and shall have thirty (30) days to submit a recommendation to the Council provided that the owner or developer may agree to an extension of time not to exceed sixty (60) days. A copy of the recommendation shall be forwarded to the owner or developer.

5. The Council, upon receipt of the Commission's recommendation, or after thirty (30) days, or any extension thereof shall have passed, shall by resolution grant approval or reject the preliminary plat. If the preliminary plat is rejected, the Council will advise the owner or developer of any changes which are desired or should have consideration before approval will be given. Upon making such changes, the developer may resubmit the preliminary plat for approval by the Commission and the Council. Approval of the preliminary plat by the Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

170.06 FINAL PLATTING PROCEDURE.

1. A final plat shall be submitted within six (6) months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to the preparation of a final plat.

2. Procedures for final plats shall be the same as set out for preliminary plats in Section 170.05 above.

3. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the Clerk, County Auditor and County Recorder, along with such other certifications and instruments as may be required by law.

4. Final platting of townhome lots and as built surveys shall be completed and recorded prior to occupancy of the units.

(Ord. 1415 – Aug. 08 Supp.)

170.07 PLATS OUTSIDE CORPORATE LIMITS. The procedure for approval of plats of survey, preliminary plats and final plats of land within two (2) miles of the corporate limits shall be the same as set out in Sections 170.05 and 170.06 above, except that seven (7) copies of the plat shall be filed with the Clerk and the Clerk shall refer one (1) copy to the County Engineer and one (1) copy to the County Planning and Zoning Commission and request their

recommendations to be submitted to the Commission. The Commission shall have forty-five (45) days to submit a recommendation to the Council and shall not take action on the plat prior to receiving the recommendations of the County, provided that the County shall submit its recommendations within thirty (30) days after the referrals of the plat to the County Engineer and the County Planning and Zoning Commission. ***(Ord. 1239 – Feb. 03 Supp.)***

170.08 PROFESSIONAL ASSISTANCE. The City Council, the Commission or City staff may request such professional assistance as it deems necessary to properly evaluate the plats as submitted. The owner or developer shall reimburse the City for the reasonable expenses incurred by the City for all contracted professional engineering or consulting services. The Council shall not give final approval of a plat until the City has been reimbursed for the expenses.

170.09 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat shall contain the following information:

1. A location map showing:

   A. The subdivision name.

   B. An outline of the area to be subdivided.

   C. The existing streets and public or community utilities, if any, on adjoining property.

   D. North point and scale.

2. A preliminary plat of the subdivision drawn to the scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing would be over thirty-six (36) inches in its shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used, said preliminary plat to show:

   A. The legal description, acreage and the name of the proposed subdivision.

   B. The name and address of the owner.

C. The name of the person who prepared the plat, and the date thereof.

D. The location of existing lot lines, streets, public utilities, water mains, sewers, drainpipes, culverts, watercourses, bridges, railroads and buildings in the proposed subdivision.

E. Contours at vertical intervals of not more than two (2) feet, based upon City datum, except that where the slope of the land exceeds twenty-five percent (25%), five (5) foot intervals shall be sufficient.

F. The location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas.

G. A statement concerning the location and approximate size or capacity of utilities proposed to be installed.

H. Tract boundary lines showing dimensions, bearings, angles, and references to known lines or bench marks.

I. The names and addresses of adjacent property owners.

J. Proposed building lines.

K. Grades of proposed streets.

L. A cross-section of the proposed streets showing the roadway location, type and width of surfacing, the type drainage and other improvements to be installed.

M. The location of proposed wells and/or water mains and sewage disposal system if a public or community system is used.

N. The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures.

O. North point and graphic scale.

P. The location and dimension of sidewalks to be installed.

Q. A recommendation from the Warren County Soil Conservation District or the City's Public Service Director regarding the proposed plan, methods and/or techniques proposed for controlling erosion along new or altered surface drainage courses which will become a permanent part of the subdivision. Said recommendations shall also be obtained for the temporary methods and/or techniques to be used in controlling such erosion during construction and development of the subdivision. No preliminary plat shall be approved by the City until an acceptable erosion control plan shall have been prepared.

170.10 FINAL PLAT REQUIREMENTS. The final plat shall meet the following specifications:

1. It may include all or only part of the preliminary plat.

2. The plat shall be drawn to the scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing would be over thirty-six (36) inches in its shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used. A reproducible sepia shall be filed with the Clerk.

3. The final plat shall contain the following:

A. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in three thousand (3,000) feet.

B. Accurate references to known or permanent monuments, giving the bearing and distance from some corner of a congressional division of the county of which the subdivision is a part.

C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.

D. Accurate metes and bounds description of the boundary.

E. Street names.

F. Complete curve notes for all curves included in the plat.

G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines.

H. Lot numbers and dimensions.

I. Accurate locations and descriptions of easements for utilities and any limitations on such easements.

J. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.

K. Building lines and dimensions.

L. The location, type, material and size of all monuments and markers.

M. The name of the subdivision.

N. The name and address of the owner and the subdivider.

O. North point, scale and date.

P. Certification by a registered land surveyor of the State of Iowa.

Q. Certification of dedication of streets, easements and other public property.

R. A resolution and certificate of approval by the Council for signatures of the Mayor and Clerk, stating that the plat, as described, has been acted upon and approved as required by Chapter 354, Code of Iowa, and that all dedications of streets easements and public lands have been accepted by the City.

S. Location and dimensions of sidewalks to be installed.

4. The final plat shall be accompanied by the following instruments:

A. A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds;

B. Either (i) a certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications, or (ii) a certificate from the owner or developer stating that all improvements required by this chapter shall be made or installed in accordance with City specifications before an occupancy compliance certificate is issued under the Zoning Ordinance, except as otherwise provided for in this chapter.

C. A petition by the subdivider to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable cost of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations. The final plat shall state that the subdivider, the grantees, assignees and successors in interest agree that public services including but not limited to street maintenance, snow removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the improvements have been completed and accepted by the City.

D. A copy of restrictive covenants to be attached to the lots of the subdivision.

E. A surety bond with the City which will insure that the erosion control measures as may herein be required will be undertaken promptly as development progresses. The form and type of bond shall be approved by the City Attorney and the amount of the bond shall not be less than the amount of the estimated cost of such improvements as determined by the City Engineer plus ten percent (10%), and approved by the City Council. In the event the required erosion control measures are not installed promptly, the City may, in order to prevent possible soil erosion, use the bond or any necessary portion thereof to complete such improvements.

5. The final plat shall also be accompanied by the following at the time it is presented for filing:

A. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their

desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

B. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.

C. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

The Council or Commission may request drafts or copies of any of the above instruments for examination at the time of processing the final plat if, in their opinion, the review of such instruments is deemed necessary to properly evaluate the proposed subdivision.

170.11 DESIGN STANDARDS — STREETS.

1. General Considerations.

A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.

B. Street jogs of less than 150 feet shall be avoided.

C. Cul-de-sacs shall not exceed 700 feet in length.

D. New subdivisions shall make provisions for continuation and extension of thoroughfares and collector streets and roads.

E. No dead-end streets will be permitted except at subdivision boundaries and in no event shall any dead-end street be in excess of 500 feet.

F. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof, unless a terminal point within the subdivision is shown in the master street plan.

G. Alleys shall be discouraged in residential areas but shall be provided in commercial and industrial areas unless other suitable public or private access to loading and service areas is provided.

H. Intersection of road centerlines shall be between 80 degrees and 100 degrees.

I. Intersection of more than two (2) streets at a point shall not be permitted.

J. Where parkways or special types of streets are proposed, the Commission may apply special standards for the design of such parkways or streets.

K. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street. Names of new streets shall avoid duplication of or similarity to existing names of streets, or public and semi-public buildings and areas.

2. Minimum rights-of-way shall be provided as follows:

A. Thoroughfares — 100 feet. In addition, access spacing on thoroughfares is as follows: (i) Intersection spacing - 600' minimum; (ii) Entrance spacing - 300' minimum; (iii) Separation of Entrance from Intersection - 150' minimum.

(Ord. 1499 – Aug. 12 Supp.)

B. Residential collector streets — 70 feet.

C. Commercial collector streets — 80 feet.

D. Residential streets — 60 feet.

E. Cul-de-sacs — 110 feet in diameter.

F. Alleys — 20 feet.

3. The minimum width of surfacing to be provided shall be as follows:

A. Reserved.

B. Reserved.

C. Commercial collector streets:

(1) Parallel parking — 49 feet.

(2) Angle parking — 61 feet.

D. Residential street — 25 feet or 31 feet within the discretion of the Council.

E. Cul-de-sacs — 85 feet in diameter.

F. Alleys — 20 feet.

G. Sidewalks — 4 feet. ***(Ord. 1294 – Aug. 04 Supp.)***

4. Grades. No street grade shall be less than one-half of one percent and shall not exceed the following limits:

A. Thoroughfare streets — 4 percent.

B. Collector streets — 6 percent.

C. Residential streets — 8 percent.

170.12 DESIGN STANDARDS — BLOCKS.

1. The length of blocks shall be not less than 240 feet and not more than 1,250 feet in length.

2. Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth and in no case shall the width be less than 240 feet, except where a single tier of double frontage lots parallels a limited access highway, a thoroughfare, drainage course, railroad or other barrier, the width shall be not less than 50 feet.

3. Crosswalks may be required in blocks over 700 feet long or in areas where curbed streets require excessive out of the way travel. If required, they shall be constructed by the developer. Right-of-way for crosswalks shall not be less than 30 feet, nor more than 45 feet.

170.13 DESIGN STANDARDS — LOTS.

1. All lots shall abut on a street or place. Corner lots which abut on a thoroughfare or collector street shall have a minimum radius of 15 feet at the intersection.

2. Sidelines of lots shall approximate right angles to straight street lines and radial angles to curbed street lines except where a variation will provide better lot layout.

3. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event a planting screen shall be provided along the rear of the lot.

4. Corner lots shall not be less than 80 feet in width and interior lots shall not be less than 70 feet in width at the building line.

5. Lot depth shall not exceed 2½ times the width.

6. No lot shall have less area than required by the Zoning Ordinance for the district in which it is located.

170.14 EASEMENTS.

1. Easements not less than 7.5 feet in width shall be provided along each side of the rear lot lines of all lots, and along such other lot lines as may be required by public and private utility companies.

2. Easements of greater width may be required for trunk lines, pressure lines, open drainage courses or high voltage lines and shall be provided as determined by the utility or Council.

3. Utility easements shall convey to the City, its successors and assigns, the perpetual right within the areas shown on the plat and described in the easement, to

construct, reconstruct, operate and maintain electric lines consisting of poles, wires, cables, conduits, fixtures, anchors and other similar equipment, including the right to trim or remove trees within such areas where necessary to secure a clearance of 4 feet from the wires or poles, together with the right to extend to any telephone, telegraph, electric or power company, the right to use separately or jointly with the City, the areas included in the easement for the purposes above enumerated.

170.15 PARKS, SCHOOL SITES AND PUBLIC AREAS.

1. In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds and other common areas for public use so as to conform to any recommendations of the City plan. Any provision for schools, parks and playgrounds should be indicated on the preliminary plan in order that it may be determined when and in what manner such areas will be provided or acquired by an appropriate taxing agency.

170.16 NATURAL DRAINAGE COURSES. Whenever any stream or important surface drainage course is located in an area which is being subdivided, the subdivider shall provide an adequate easement along each side of the stream for the purpose of widening, deepening, sloping. improving or protecting the stream or drainage course.

170.17 EROSION CONTROL (DESIGN STANDARDS). Methods for controlling soil erosion shall be in accordance with established techniques and procedures of the Warren County Soil Conservation District or in accordance with the City's current standards and specifications for like or similar work. Erosion control measures may, where appropriate, include mulches, temporary or permanent vegetative cover, the use of terraces, diversion ditches, impoundments, stilling basins, surface drainage pipe or other structures which will intercept, divert, retard or otherwise control runoff and soil erosion. Adequate sediment basins and other structures as might be necessary shall be provided to prevent soil from eroding onto streets, into drainage facilities or onto other property.

170.18 PLANNED DEVELOPMENTS.

1. Purpose. The purpose of this provision is to permit and encourage subdividers to utilize imaginative and innovative concepts in the design, layout and development of subdivisions.

2. Intent. It is not the intent of this provision to lessen the number, size, extent, or type of improvements required by this chapter, but to permit the

reasonable and necessary modification of the requirements in order to allow development of subdivisions which do not utilize a conventional layout for blocks, lots, streets and other features. It is the intent of this provision that any such modification or change in requirements be in harmony with the spirit of this chapter.

3. Procedure. The procedure for the submission and approval of plats for planned developments shall be the same as for other plats as set forth elsewhere in this chapter.

170.19 SANITARY SEWERS. The subdivider shall at the subdivider's expense provide the subdivision with a complete sanitary sewer system including all necessary pumping stations, force mains, pumping equipment and other appurtenances. which shall connect with a sanitary sewer outlet or treatment facility approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property. Where sewers in excess of fifteen (15) inches in diameter are required, the additional cost shall be borne by the City.

170.20 PROHIBITED DISCHARGE. No storm water, surface water, ground water, roof runoff, swimming pool, subsurface drainage, cooling water or unpolluted water shall be discharged into the City sanitary sewer system. Any such discharge into the City sanitary sewer system shall be deemed a public nuisance and a municipal infraction.

170.21 STORM DRAINS.

1. The subdivider shall, at the subdivider's expense, provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes and manholes to provide the collection and removal of all surface waters. These improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties. Where oversize storm sewers or drainage structures are required to serve other areas of the watershed, the additional cost shall be borne by the developer.

2. The subdivider shall, at the subdivider's expense, provide the subdivision with a storm sewer system to adequately handle a five (5) year rain storm. The system shall include culverts, ditches, intakes, manholes, or any structure deemed necessary. All such structures shall meet the City of Indianola Standard Specifications. In addition, the subdivider shall, at the subdivider's expense, provide the subdivision with overland drainage courses and easements to adequately handle storm water in excess of a five (5) year rain storm and up to a 100-year rain storm.

For any subdivision containing new streets, the system shall be designed by a licensed engineer registered to practice in the State of Iowa.

A. Each lot shall be provided with minimum six (6) inch diameter storm sewer service line that is a minimum of four (4) feet below ground level, stubbed to the property line, unless the Building Official determines that sump lines can be taken to an existing overland drainage area. The sump pump line shall be a minimum of one and a half (1½) inches in diameter.

B. The storm sewer system line shall be made of reinforced concrete pipe or polyvinyl chloride (PVC) pipe. The sump pump lines shall be made of PVC, PVC Truss, or PVC corrugated pipe. All structures shall be built in accordance with City of Indianola Standard Construction Specifications for Subdivisions.

C. The storm sewer system shall be large enough to provide for anticipated extension of use to serve additional areas, as set out in Indianola Comprehensive Plan.

D. Storm sewer service lines shall be connected to the City storm sewer system at intakes, manholes, or directly into the City storm sewer pipe. Tapping storm sewer service lines into the City storm sewers shall be by using approved methods.

Should it not be possible to install a storm sewer service, as described above, alternate plans may be submitted for review by the City's consulting engineer and City staff.

170.22 WATER. The subdivider shall at the subdivider's expense provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall be extended into and through the subdivision to the boundary lines, and which shall provide a water connection for each lot, and shall be connected to the City water system. Fire hydrants shall be uniform throughout the subdivision and shall meet the standards and design approved by the Utilities Board of Trustees. Where water mains in excess of eight (8) inches are required, the additional cost shall be borne by the City if the area is zoned R-2 or R-3. If at the time the main is to be installed the area in question is zoned R-4, any commercial or any industrial classification, the subdivider may be required to put in a water main in excess of eight (8) inches at the subdivider's own expense. Whether the City shall pay a portion of the additional cost shall be discretionary with the Board of Trustees. Water mains shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.

170.23 SIDEWALKS. The subdivider shall at the subdivider's expense provide a four-foot wide concrete sidewalk along each lot frontage prior to the occupancy of the structure on the lot except as otherwise provided herein. In commercial or industrial areas where it can be demonstrated that there will be limited or no need for sidewalks, the Council may waive or modify the requirement for the installation of sidewalks after review and report from the Commission. The Council may waive the sidewalk requirement on cul-de-sacs. Any such waiver shall not be acted upon until the Council has received the recommendation of the Commission.

170.24 MARKERS. The subdivider shall at the subdivider's expense place an iron rod not less than one-half inch in diameter and twenty-four (24) inches in length as follows:

1. Set in concrete three (3) feet deep at the intersection of all lines forming angles in the boundary of the subdivision, and at all street intersections.

2. At lot corners and changes in direction of block and lot boundaries.

170.25 GRADING. The subdivider shall at the subdivider's expense bring all streets and alleys with the platted area which are being dedicated for public use to the grade approved by the Council.

170.26 CURB AND GUTTER. The subdivider shall at the subdivider's expense install curb and gutter on all streets in the plat being dedicated for public use. Curb and gutter shall be constructed of Portland cement concrete in accordance with designs and specifications and at grades approved by the Council.

170.27 EROSION CONTROL (REQUIRED IMPROVEMENTS). The subdivider shall be responsible for controlling soil erosion and surface water runoff within the subdivision during its construction and development and shall provide erosion and runoff control measures as work progresses on site grading, the installation of sewers or other improvements or phases of work. Insofar as practical, erosion control measures shall be undertaken prior to any other development within the subdivision which will contribute to runoff or erosion.

170.28 SURFACING. The subdivider shall at the subdivider's expense surface all streets being dedicated for public use from curb to curb. Surfacing shall consist of not less than six (6) inches of Portland cement concrete over a prepared subgrade and shall be constructed in accordance with designs and specifications and at grades approved by the Council. Where a surface width in excess of thirty-one (31) feet is required, the cost of the additional surface width, which shall be assumed to be the center portion of the roadway surface, shall be paid by the City. On collector and thoroughfare streets where a higher standard than is herein required or a thickness of greater than eight (8) inches is deemed necessary by the Council, the additional cost shall be born by the City. Where unimproved street right-of-way exists the owner or developer at the owner's or developer's own expense shall improve such right-of-way as required by this section for the entire width of the lot or lots (or for the entire width and the length of the lot or lots in the case of lot or lots bordered by more than one street) prior to or contemporaneous with the development of the lot or lots. The owner or developer shall also improve all other portions of unimproved street right of way serving such areas.

170.29 SPECIFICATIONS. The type of construction, the materials, the methods, the standards of subdivision improvements and the maintenance bonds shall be in accordance with the specifications found in a bound volume which is entitled *Standard Construction Specifications for Subdivisions* which is on file in the Clerk's office. The Council may from time to time amend by resolution the standard construction specifications for subdivisions found in the volume. The Clerk shall keep a record of all amendments made to the specifications. Plans and specifications for subdivisions shall be submitted to the Building Official for approval prior to construction, and construction shall not be started until the plans and specifications have been approved. ***(Ord. 1362 – Nov. 06 Supp.)***

170.30 APPROVAL OF PLANS AND SPECIFICATIONS. The approval of plans and specifications relative to improvements required by this chapter shall be effective for a period of two (2) years after the approval. If the required improvements are not in place and accepted by the City within the times specified, the approval shall lapse and construction shall not be started and construction under way shall cease until resubmitted plans and specifications have been approved. The City shall have the right, at the time of the new request for approval, to require the subdivider to use the type of construction, the materials, the methods and standard of subdivision improvements equal to the specifications of the City for like work which are in effect at that time. The City may also require that the subdivider comply with any amended ordinance or ordinances relative to improvements under this chapter or any successor chapter relative to subdivision improvements which have been adopted between the time of initial approval and the renewed approval as herein required. The reapproval as required by this section specifically applies only to the plans and specifications relative to subdivision improvements and has no application as to lot sizes, set backs, lot boundaries, street location or other platting requirements which shall be final on Council approval unless changed by some other method permitted by law.

170.31 INSPECTION. The subdivider or developer shall cause the installation of all improvements to be inspected to ensure compliance with the requirements of this chapter. The cost of the inspection shall be borne by the subdivider or developer. All inspection reports and certificates of compliance shall be filed with the Clerk before any improvements are accepted by the Council. Before accepting any portion of a sanitary sewer system and maintenance thereof which has been constructed under the provisions of Sections 170.19 and Section 170.29 above, the Council reserves the right to have all mains within the sewer system to be dedicated, televised in order to determine whether they have been properly constructed. The televising shall be at the expense of the subdivider or party making the dedication.

170.32 ACCEPTANCE. All of the improvements required in this chapter under Sections 170.19 through 170.28 shall, upon their completion, inspection, approval and acceptance by the City of Indianola, become the property of the City.

170.33 ELECTRIC SERVICE. The City, by and through Indianola Municipal Utilities, shall extend electric service to the subdivision and shall make electric service available to each lot in the subdivision that is within Indianola Municipal Utilities' assigned area of service pursuant to Iowa Code Chapter 476. The City, by and through Indianola Municipal Utilities, shall install street lighting that is within Indianola Municipal Utilities' assigned area of service pursuant to Iowa Code Chapter 476 to current Indianola Municipal Utilities' standards and specifications. In residential subdivisions, all electric lines, including individual house service

lines installed by the owner or developer, shall be placed underground.
(Ord. 1281 – May 04 Supp.)

170.34 CHARGE FOR INSTALLATION OF ELECTRICAL SERVICE. The City, by and through Indianola Municipal Utilities, reserves the right to make a reasonable charge to be paid by the developer, builder or owner for any service extended as provided by Section 170.33 above. Said charges may be changed from time to time, but shall be in accordance with a schedule of charges set by the Indianola Municipal Utilities Board of Trustees.

(Ord. 1281 – May 04 Supp.)

170.35 IMPROVEMENTS WITHIN THE TWO-MILE CONTROL AREA.

1. Improvements in the two-mile control area shall be the same as required above, provided they are not less than that required by the County subdivision policy, and provided further that all road and drainage construction plans shall be approved by the County Engineer, and completed roads shall be accepted by the Board of Supervisors for Public Maintenance. This subsection does not apply to plats of survey.

2. Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made by trust agreements, made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities. This subsection does not apply to plats of survey.

(Ord. 1239 – Feb. 03 Supp.)

170.36 FEES. Each preliminary plat submitted for approval shall be accompanied by a fee of one hundred fifty dollars ($150.00) and an additional charge of ten dollars ($10.00) for each lot in excess of ten (10) included within the plat, which shall be credited to the General Fund of the City. Each plat of survey submitted for approval shall be accompanied by a fee of twenty-five dollars ($25.00) which shall be credited to the General Fund of the City. In addition, each final plat submitted for approval shall be accompanied by a fee of seventy-five dollars ($75.00) and an additional charge of five dollars ($5.00) for each lot in excess of ten (10) included within the plat, which shall be credited to the General Fund of the City.

(Ord. 1261 – Aug. 03 Supp.)

170.37 VARIANCES. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

170.38 ENFORCEMENT. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall not be violated subject to the following:

1. No plat of survey, plat or subdivision in the City or within two (2) miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.
(Ord. 1239 – Feb. 03 Supp.)

2. No more than two (2) building permits for principal structures issued for each separate tract existing at the effective date of this chapter unless the tract shall have been platted in accordance with the provisions contained herein except planned multiple-family, commercial or industrial complexes under a common ownership and constructed in accordance with an overall site development plan.

3. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the adoption of the regulations in this chapter unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.

4. Any persons who shall dispose of or offer for sale or lease any lots in the City, addition thereto, or within one mile thereof until the plat shall have been approved, acknowledged and recorded as provided by this chapter and Chapter 354, Code of Iowa, shall forfeit and pay fifty dollars ($50.00) for each lot or part thereof sold, disposed of, leased, or offered for sale.

5. No occupancy compliance certificate required by the Zoning Ordinance shall be issued until and unless all improvements required by this chapter have been made in accordance with the City's plans and specifications and accepted by the Council or as may otherwise be provided for elsewhere in this chapter.

170.39 AMENDMENTS. This chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

170.40 CONDITIONS REQUIRING A SIXTY FOOT BUFFER PARK.

1. Platting of vacant land into single- or multi-family residential lots that lie adjacent to M-1 (Limited Industrial) or M-2 (General Industrial). In the case where M-1 or M-2 lies adjacent to public road or right-of-way, a 30' buffer park shall be required constructed parallel along the entire width of the parcel adjacent to the public road or right-of-way provided the buffer does not conflict with Section 165.10 paragraph 1. *Visibility at Intersection* of the zoning ordinance. The buffer park shall be completed prior to the issuance of any certificate of occupancy within the platted area.

2. Platting of vacant land into M-1 (Limited Industrial) or M-2 (General Industrial) lots that lie adjacent to single- or multi-family lots. In the case where M-1 or M-2 lies adjacent to public road or right-of-way, a 30' buffer park shall be required constructed parallel along the entire width of the parcel adjacent to the public road or right-of-way provided the buffer does not conflict with Section 165.10 paragraph 1. *Visibility at Intersection* of the zoning ordinance. The buffer park shall be completed prior to the issuance of any certificate of occupancy within the platted area.

(Ord. 1454 – Nov. 10 Supp.)

170.41 SIXTY FOOT BUFFER PARK REQUIREMENTS.

1. Buffer parks not less than sixty (60) feet in width shall be designed by a registered Landscape Architect, Architect or Engineer with earth berming and landscape plantings. The plantings shall be predominantly of evergreen type trees and shrubs to assure year round effectiveness. The earth berming shall be a minimum height of five (5) feet above the top of the curb of the adjoining parking lot, if applicable, or public thoroughfare, and shall be pleasing to the general public. Berms may be required to be higher if the minimum height is identified during the development review process as being inadequate to provide effective screening and

buffering. The berm shall be designed such that it does not negatively affect the drainage of the surrounding area.

2. In addition to earth berming, the following standards shall be required for landscape plantings: The equivalent of one (1) overstory tree and three (3) shrubs per thirty-five (35) linear feet of buffer park. Deciduous trees shall have a minimum of 2.5 inch caliper. Evergreen trees shall be a minimum of six (6) feet in height and will be equal to one (1) overstory tree. Shrubs shall be a minimum size of 18-24 inches in height. Whenever practical, existing trees and shrubs shall be preserved and incorporated into the overall design of the buffer park and can be included in the total number of required trees and shrubs, if it is determined during the development review process that the existing trees will provide the necessary screening and buffering. Substitution of plant materials will be allowed at the following rate: two (2) ornamental trees or five (5) shrubs may be substituted for one (1) overstory tree. In no case shall the substitution of overstory trees be in excess of fifty (50) percent of the required number.

170.42 CONDITIONS REQUIRING A THIRTY FOOT BUFFER PARK.

1. Platting of vacant land into single-or multi-family residential lots that lies adjacent to C-1 (Shopping Center) or C-2 (Highway Commercial). The buffer park shall be completed prior to issuance of any building permits within the platted area.

2. Platting of vacant land into C-1 (Shopping Center) or C-2 (Highway Commercial) that lies adjacent to residentially zoned property. The buffer park shall be completed prior to issuance of any building permits within the platted area.

170.43 THIRTY FOOT BUFFER PARK REQUIREMENTS. A buffer park of not less than thirty (30) feet in width shall comply with the standards set forth for the sixty (60) foot buffer parks except for the following:

1. The equivalent of one (1) overstory tree, two (2) ornamental trees and six (6) shrubs per thirty-five (35) linear feet of the buffer park. Deciduous overstory trees shall be a minimum 3 – 3.5 inches caliper and two (2) evergreen trees with a minimum height of six (6) feet shall be equal to one (1) overstory tree. Ornamental trees shall be a minimum of 2 – 2.5 inches caliper in size. A six (6) foot evergreen tree may also be substituted for one (1) ornamental tree. Shrubs shall be a minimum size of 18 - 24 inches. The earth berming shall be a minimum height of three (3) feet and shall be designed not to negatively effect the drainage of the surrounding area.

2. Two (2) ornamental trees or five (5) shrubs may be substituted for one (1) overstory tree.

170.44 BUFFER PARK MISCELLANEOUS.

1. Plans for the buffer park shall be identified as an easement and submitted for review and approval at the same time as the preliminary plat. The developer of the subdivision shall be required to install and maintain the buffer plantings for a period of one (1) year from the date of completion. At the end of the one-year time period, the developer shall replace any plant materials that have not survived. Upon acceptance by the City, the property owner shall assume the responsibility for maintenance.

2. Where one of the two different zoning districts requiring the buffer park between them and one of the properties is developed without buffering provisions, the developer of the vacant land shall assume the burden of the entire park.

3. The Architect or Engineer designing the buffer park shall review the City of Indianola Comprehensive Plan for any possible extension or connection to the City's bike and walking trails.

4. The City Council reserves the right to waive or modify to a lesser restriction of any provision or requirement of buffers, provided a favorable recommendation by the Planning and Zoning Commission is given, provided the waiver or modification does not adversely affect the intent of the regulation. Things that can be considered include, but are not limited to the future development as shown by the current Comprehensive Plan and the compatibility or non-compatibility of permitted uses in adjacent but different zoning classifications.

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APPENDIX TO
CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The "OFFICIAL COPY" of the Code of Ordinances must be kept by the City Clerk and should be identified as the "OFFICIAL COPY."

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances was No. 163, we would suggest that the first ordinance passed changing, adding to or deleting from the Code be assigned the number 164; the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances, and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, ____, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of _____, Iowa, ____ is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, ____, and approved this ___ day of _____, ____.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, ____.

_____
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, ____, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of _____, Iowa, ____, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, ____, and approved this ___ day of _____, ____.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No.___ on the ___ day of _____, ____.

_____
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted or changed as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, ____, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of _____, Iowa, ____, is repealed and the following adopted in lieu thereof:

> **99.02 RATE.** Each customer shall pay a sewer rental in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars ($10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, ____, and approved this ___ day of _____, ____.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, ____.

_____
City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These ordinances include ordinances (1) establishing grades of streets or sidewalks, (2) vacating streets or alleys, (3) authorizing the issuance of bonds and (4) zoning map ordinances.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ___

AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO (2) RAILROAD ADDITION TO _____, IOWA

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. The alley lying in Block Two (2), Railroad Addition to _____, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, ____, and approved this ___ day of _____, ____.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, ____.

_____
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORM

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of _____, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)
_____
(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

DESCRIPTION OF PROPERTY

_____
_____
_____

The nearest public sewer line within _____ (____) feet of the above described property is located
_____
_____
_____

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date Of Notice: _____

City Of _____, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

_____
(Street Address)

_____, Iowa

You are hereby notified that the City Council of _____, Iowa, will meet on the ___ day of _____, ____, at _____ o'clock _m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

DESCRIPTION OF PROPERTY

_____

_____

_____

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date Of Notice: _____

City Of _____, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of _____, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, ____, on _____,
(Name of Property Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as
_____
_____
_____
_____

to the public sanitary sewer located
_____
within _____ (_____) days from service of notice upon said owner or agent; and,

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council;

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon;

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or his agent, _____
(Name of Owner or Agent)
is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon him; and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above; and

BE IT FURTHER RESOLVED, that in the event the owner, or agent, _____, fails to make such
(Name of Owner or Agent)
connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner
_____
(Owner's Name)
_____, as provided by law.
(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, ____.

_____
Mayor

ATTEST:

_____
City Clerk

INDIANOLA, IOWA

TRAFFIC CONTROL

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

1. Highway 92 from the west City limits to the east City limits.
2. Ashland Avenue from the west City limits to the east City limits.
3. Buxton Street from the north City limits to the south City limits.
4. Howard Street from the north City limits to the south City limits.
5. Jefferson Street from the north City limits to the south City limits.
6. Salem Avenue from the west City limits to the east City limits.

STOP AND YIELD INTERSECTIONS. The following intersections are hereby established as stop and yield intersections and signs shall be erected at the designated entrances.

Intersection	Entrances
First Street and Fourth Avenue	East and West
First Street and Third Avenue	East, West, North and South
First Street and First Avenue	East and West
First Street and Salem Avenue	North and South
First Street and Ashland Avenue	North and South
First Street and Boston Avenue	North and South
First Street and Clinton Avenue	North and South
First Street and Detroit Avenue	North and South
First Street and Franklin Avenue	East and West
First Street and Euclid Avenue	North and South
First Street and Girard Avenue	North and South
First Street and Iowa Avenue	South
First Street and Kentucky Avenue	South
First Street and Orchard Avenue	South
First Street and Valley Place Drive	North
Third Street and First Avenue	North and South
Third Street and Salem Avenue	North and South
Third Street and Ashland Avenue	North and South
Third Street and Boston Avenue	North and South
Fourth Street and First Avenue	North and South
Fourth Street and Salem Avenue	North and South
Fourth Street and Ashland Avenue	North and South
Fourth Street and Boston Avenue	North and South
Fifth Street and Ashland Avenue	North
Fifth Street and Boston Avenue	East
Fifth Street and Clinton Avenue	West
Fifth Street and Euclid Avenue	South
Sixth Street and Euclid Avenue	North
Sixth Street and Iowa Avenue	North and South
Sixth Street Place and Euclid Avenue	North

Seventh Street and Salem Avenue	North
Seventh Street and Ashland Avenue	South
Seventh Street and Euclid Avenue	South
Eighth Street and Salem Avenue	South
Eighth Street and Euclid Avenue	North, South, East and West
Eighth Street and Franklin Avenue	East and West
Eighth Street and Girard Avenue	East and West
Eighth Street and Iowa Avenue	South
South Eighth Street and East First Avenue	North and South
Ninth Street and First Avenue	East and West
Ninth Street and Salem Avenue	East and West
Ninth Street and Ashland Avenue	East and West
Ninth Street and Clinton Avenue	East
Ninth Street and Euclid Avenue	East, West, North and South
Ninth Street and Girard Avenue	North and South
Ninth Street and Iowa Avenue	South
Tenth Street and Clinton Avenue	North, South, East and West
Tenth Street and Euclid Avenue	South
Twelfth Street and Clinton Avenue	North
Twelfth Street and Euclid Avenue	North and South
North Twelfth Street and East Franklin Avenue	East and West
North Twelfth Street and East Girard Avenue	East and West
Fourteenth Street and Clinton Avenue	North and South
Fourteenth Street and Euclid Avenue	North and South
Fourteenth Street and Hillcrest Avenue	South
Fourteenth Street and Iowa Avenue	North and South
Fifteenth Street and Clinton Avenue	West
Fifteenth Street and Detroit Avenue	West
Fifteenth Street and Euclid Avenue	West
Ann Parkway and Iowa Avenue	North
East Ashland and Avenue and North Ninth Street	North and South
B Street and Fourth Avenue	North and South
B Street and First Avenue	North and South
B Street and Henderson Avenue	East and West
B Street and Salem Avenue	North and South

B Street and Ashland Avenue	North and South
B Street and Boston Avenue	East, West, North and South
B Street and Clinton Avenue	South
B Street and Iowa Avenue	North and South
B Street and Kentucky Avenue	North and South
West Boston Avenue and North D Street	North and South
Buxton Street and Fourth Avenue	East and West
Buxton Street and Third Avenue	East and West
Buxton Street and First Avenue	East and West
Buxton Street and Salem Avenue	West and North
Buxton Street and Ashland Avenue	West, North and East
Buxton Street and Boston Avenue	East and West
Buxton Street and Clinton Avenue	East and West
Buxton Street and Detroit Avenue	East
Buxton Street and Euclid Avenue	East
Buxton Street and Franklin Avenue	East
Buxton Street and Girard Avenue	East and West
Buxton Street and Henderson Avenue	East and West
Buxton Street and Iowa Avenue	East and West
Buxton Street and Jackson Avenue	East and West
Buxton Street and Kentucky Avenue	North
North Buxton Street and West Clinton Avenue	North
C Street and First Avenue	North and South
C Street and Salem Avenue	North and South
C Street and Ashland Avenue	North and South
C Street and Boston Avenue	East and West
C Street and Clinton Avenue	South
C Street and Girard Avenue	East and West
C Street and Henderson Avenue	East and West
C Street and Iowa Avenue	North and South
C Street and Kentucky Avenue	East
C Street and Lincoln Avenue	West
North C Street and Madison Place	East and West
D Street and First Avenue	East and West
D Street and Salem Avenue	North and South

D Street and Ashland Avenue	North and South
D Street and Boston Avenue	East and West
D Street and Clinton Avenue	North, South, East and West
D Street and Detroit Avenue	West North and South
D Street and Girard Avenue	East and West
D Street and Iowa Avenue	South
D Street and Fourth Avenue	East and West
E Street and First Avenue	North and South
E Street and Fourth Avenue	North and South
E Street and Girard Avenue	East
E Street and Salem Avenue	South
E Street and Detroit Avenue	North
E Street and Iowa Avenue	North, South, East and West
E Street and Jackson Avenue	East
E Street and Lincoln Avenue	East
Country Club Road and Felton Road	West
Country Club Road and Sunset Drive	West
E Street and Robin Glen	West
F Street and First Avenue	North and South
F Street and Fourth Avenue	North and South
F Street and Salem Avenue	North and South
F Street and Ashland Avenue	North and South
F Street and Boston Avenue	East and West
F Street and Clinton Avenue	North and South
F Street and Detroit Avenue	South
East Franklin Avenue and North Fourteenth Street	East and West
Freeman Street and West Third Avenue	West
Freeman Street and Fourth Avenue	North and South
G Street and Fourth Avenue	East
G Street and Third Avenue	East and West
G Street and First Avenue	East and West
G Street and Salem Avenue	North and South
G Street and Ashland Avenue	East
G Street and Boston Avenue	East and West
G Street and Clinton Avenue	North and South

G Street and Detroit Avenue	East and West
G Street and Euclid Avenue	East
East Girard Avenue and North Fourteenth Street	East and West
H Street and Salem Avenue	North and South
H Street and Clinton Avenue	North and South
Howard Street and Fourth Avenue	East and West
Howard Street and Third Avenue	East and West
Howard Street and First Avenue	East and West
Howard Street and Salem Avenue	East, South and West
Howard Street and Ashland Avenue	East and South
Howard Street and Boston Avenue	East and West
Howard Street and Clinton Avenue	East and West
Howard Street and Detroit Avenue	East and West
Howard Street and Euclid Avenue	East and West
Howard Street and Franklin Avenue	East and West
Howard Street and Girard Avenue	East and West
Howard Street and Henderson Avenue	East and West
Howard Street and Iowa Avenue	East and West
Howard Street and Jackson Avenue	West
Howard Street and Kentucky Avenue	South
I Street and Clinton Avenue	North and South
I Street and Detroit Avenue	East and West
East Iowa Avenue and North Fourteenth Street	North and South
J Street and Salem Avenue	East, West, North and South
J Street and Boston Avenue	East, West, North and South
J Street and Clinton Avenue	East, West, North and South
J Street and Euclid Avenue	North and South
J Street and Iowa Avenue	South
K Street and Euclid	South
Kenwood Boulevard and Salem Avenue	East
Kenwood Boulevard and Clinton Avenue	East
Kenwood Boulevard and Euclid Avenue	North and South
Kenwood Boulevard and West Euclid Avenue	East and West
Lundahl Court and Orchard Avenue	South
M Street and Salem Avenue	West

M Street and Boston Avenue	South and West
N Street and Clinton Avenue	East, West, North and South
N Street and Euclid Avenue	East, West, North and South
Orchard Avenue and Apple Drive	North and South
Orchard Avenue and B Street	South
Orchard Avenue and C Street	East, West and South
Orchard Avenue and Country Club Road	East and West
P Street and Salem Avenue	South
P Street and Third Avenue	East
South P Street and West Fifth Avenue	South
Quail Ridge Road and Country Club Road	West
R Street and Fourth Avenue	East and West
Stephen Court and Iowa Avenue	North
Fifteenth Street and Boston Avenue	West
Fifteenth Street and Clinton Avenue	East
Tenth Street and Clinton Avenue	East and West
E Street and Iowa Avenue	East and West
Orchard Avenue and Lundahl Court	East and West
H Street and Boston Avenue	North and South
Sixth Street and Kentucky Avenue	North, South, East and West
C Street and First Avenue	North and South
Ninth Street and Iowa Avenue	North and South
Jefferson Way and Kentucky Avenue	East and West
Fifteenth Street and Plainview Avenue	North
Angela Drive and Stephen Court	South
Wesley Lane and Robin Glen	North
North Fifteenth Street and East Franklin Avenue	West
North Fifteenth Street and East Girard Avenue	West
South G Street and West Twelfth Avenue	West
East Hillcrest Avenue and North Fifteenth Street	South
East Hillcrest Avenue and North Ninth Street	South
South J Street and West First Avenue	South
North I Street and West Iowa Avenue	East
North Y Street and West Euclid Avenue	East
South K Street and West Twelfth Avenue	East

South K Street and West Seventeenth Avenue	East
South Fifteenth Street and East Plainview Avenue	East
East Iowa Avenue and North Fifteenth Street	North and South
North U Street and West Euclid Avenue	North
First Street and Fifth Avenue	East
6th Street and Euclid Avenue	North
North 9th Street and East Franklin Avenue	West
North 9th Street and East Henderson Avenue	East and West
7th Street and South Buxton Street	East and West
Franklin Avenue and Kenwood Boulevard	East
Kenwood Boulevard and Iowa Avenue	South
Iowa Avenue and L Street	North
Highway R63 and West Fourth Avenue	West
North O Street and North N Street	East
Ninth Street and Hillcrest Avenue	North and South
West Iowa Avenue and North O Street	North
West Girard Avenue and North U Street	West
9th Street and Madison Avenue	West
9th Street and Lincoln/Kentucky Avenues	North and South
Lancaster Way and Lincoln Avenue	South
Kensington Court and East Kentucky Avenue	South
20th Street and First Avenue	East and West
19th Street and First Avenue	South
North W Street and West Girard Avenue	East
North W Street and West Euclid Avenue	North
East First Avenue and South 15th Street	East
South 20th Street and Highway 92 East	South
3rd Street and East 1st Avenue	North and South
4th Street and East 1st Avenue	North and South
1st Street and Hillcrest Avenue	North
O Street and Kentucky Avenue	East
O Street and Jackson Avenue	East and West
17th Street and Clinton Avenue	North and South
17th Street and Boston Avenue	North
16th Street and Clinton Avenue	North and South

16th Street and Boston Avenue	North
West 14th Avenue and South K Street	West
South L Court and West 14th Avenue	North
South N Court and West 14th Avenue	South
West 13th Avenue and South O Street	West
East Lincoln Avenue and North 6th Street	East
West Kentucky Avenue and North O Street	East
West Girard Avenue and North V Street	North
West Henderson Avenue and North V Street	North and South
North U Street and West Henderson Avenue	South
North T Street and West Henderson Avenue	South
North S Street and West Henderson Avenue	South
N Street and Boston Avenue	North
E. Lincoln Avenue and N. 7th Street	North and South
N. 7th Court and E. Lincoln Avenue	North and South
N. 8th Court and E. Lincoln Avenue	South
N. 9th Street and Summit Place	North
N. 8th Street and Scenic Valley Court	West
N. 8th Street and E. Trail Ridge Place	East
Scenic Valley Court and N. 9th Street	West
South "F" and West 4th	North and South
18th Street and Boston Avenue	South
Boston Place and 18th Street	East
Clinton Avenue and 18th Street	East
Clinton Place and 18th Street	East
W. Euclid Avenue and "U" Street	East, West, North and South
West Scenic Valley Drive and Country Club Road	West
Scenic Valley and Country Club Road	Eastbound
Trail Ridge Road and Country Club Road	Eastbound
Fairway and Orchard	Southbound
E. Scenic Valley Avenue and N. Third Lane	West
N. Fourth Street and N. Third Lane	South
N. Sixth Street and N. Third Lane	South
N. Fourth Street and E. Hillcrest Drive	North
N. Sixth Street and E. Hillcrest Drive	North

[The next page is 13]

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

1. First Avenue, on the north side, from Buxton Street to Howard Street.

2. East First Avenue, on the north side, from First Street to Howard Street.

3. East First Avenue, on the north side, from the centerline of North Ninth Street 575 feet to the east, from 7 a.m. to 4 p.m. on days when the Indianola Community Schools are in session.

4. East First Avenue, on the south side, from Jefferson Way to South Twelfth Street and on the north side in Meadow Brook Subdivision.

5. West First Avenue, on the south side, from B Street to South G Street.

6. North First Street, on the east side, from the east/west alley between Ashland Avenue and Boston Avenue to Boston Avenue.

7. North First Street, on the west side, from Boston Avenue to Clinton Avenue.

8. North First Street, on the west side, between East Orchard Avenue and Valley Drive.

9. South First Street, on the east side, from East First Avenue south to the north section line of Section 36-76-24.

10. Third Avenue, on the south side, from Fourth Street west past Buxton Street.

11. East Third Avenue, on the south side, from South Fourth Street to the east end of East Third Avenue.

12. West Third Avenue, on the south side, from South Freeman Street to Iowa Highway 92.

13. West Third Place, on the south side, from Kenwood Boulevard west to the northwest corner of Block 12, Herolds Addition.

14. West Third Avenue, on the south side, from South N Street to South P Street.

15. Third Street, on the west side, from East Clinton Avenue south to East Fifth Avenue.

16. South Third Street, on the east side, from East Fifth Avenue south to the end of the street as it now exists.

17. South Third Street, on the west side, from West Fourth Avenue to West Sixth Avenue, and from East Twelfth Avenue to East Thirteenth Place, and from East Fourteenth Place to East Seventeenth Avenue.

18. West Fourth Avenue, on the south side, from South Howard Street to South G Street.

19. West Fourth Avenue, on the south side, from 600' west of South R Street to South O Street.

20. Fourth Street, on the west side, from East Clinton Avenue south to the southeast corner of Block 8, Haworths Addition and on North Fourth Street, on the east side, from East Hillcrest Drive to North Third Lane.

21. Fifth Avenue, on the south side, from South First Street to South Fourth Street.

22. Fifth Avenue, on the south side, from Freeman Street to the northeast corner of Lot 18, McCord Subdivision of Auditors Outlot 131.

23. West Fifth Avenue, on the south side, from South N Street to South R Street.

24. Fifth Street, on the west side, from East Euclid Avenue to East Ashland Avenue.

25. West Sixth Avenue, on the south side, from 0 Street east to the northeast corner of Lot 10, Block 5, Buxtons Addition.

26. North Sixth Street, on the west side, north of East Euclid Avenue and on the east side north of East Hillcrest Drive.

27. North Sixth Street Place, on the east side, from East Franklin Avenue to East Euclid Avenue.

28. West Sixth Avenue, on the south side, from West Fifth Avenue to the east end of West Sixth Avenue.

29. Seventh Street, on the west side, from East Ashland Avenue to East Salem Avenue; and on the east side in the Hillcrest Industrial Park.

30. Seventh Street, on the west side, from East Euclid Avenue to East Clinton Avenue.

31. North Seventh Street, on the east side, from East Girard Avenue to East Franklin Avenue.

32. North Seventh Street, on the west side, from East Kentucky Avenue to East Lincoln Avenue.

33. West Seventh Avenue, on the south side, from South Howard Street to the west end of West Seventh Avenue.

34. West Eighth Avenue, on the south side, from South Buxton to the end of the cul-de-sac.

35. Eighth Street, on the west side, from East Girard Avenue to East Clinton Avenue and from Summit Place north to the dead end.

36. Eighth Street, on the west side, from East Salem Avenue to Highway 92.

37. Tenth Street, on the west side, from East Euclid Avenue to C.B. & Q.R.R. right-of-way.

38. Eleventh Street, on the west side, from East Euclid Avenue to the cul-de-sac in Block 5, Easton Park Addition.

39. Twelfth Street, on the east side, from East Euclid Avenue to East Clinton Avenue..

40. Twelfth Street, on the west side, from East Euclid Avenue to the north lot line of Lot 7, Easton Park 3rd Addition.

41. North Twelfth Street, on the west side, from East Girard Avenue to East Euclid Avenue.

42. Thirteenth Street, on the west side, from East Clifton Avenue south to the cul-de-sac in Block 6, Easton Park Addition.

43. Angela Drive, on the south side, from Wesley Lane to Tawnya Terrace.

44. Ann Parkway, on the west side, from Caroline Terrace south to West Iowa Avenue.

45. Apple Drive, on the west side, from Buxton Place to the north end of Apple Drive.

46. Ashland Avenue, on the north side, from North First Street to North Second Street.

47. East Ashland Avenue, on the south side, from Jefferson Way east to a point 150 feet east of Jefferson Way.

48. East Ashland Avenue, on the south side, from a point 300 feet east of Jefferson Way to a point 200 feet east of Ninth Street.

49. West Ashland Avenue, on the south side, from North C Street to North G Street and from North H Street to North J Street..

50. B Street, on the west side, from Highway 92 south to West Fourth Avenue.

51. B Street, on the west side, from Ashland Avenue to Salem Avenue.

52. North B Street, on the west side, from Ashland Avenue to Clinton Avenue.

53. North B Street, on the west side, from West Lincoln Avenue to West Girard Avenue.

54. North B Street, on the west side, from Madison Place to Orchard Avenue.

55. South B Street, on the west side, from West Fourth Street to the south end of South B Street.

56. Brookwood Drive, on the south side, from West Euclid Avenue to Kenwood Boulevard.

57. North Buxton Street, on the west side, from West Kentucky Avenue to Buxton Place.

58. North Buxton Street, on the west side, from West Boston Avenue to West Kentucky Avenue.

59. Buxton Place, on the south side, from North Buxton Street to Apple Drive.

60. South Buxton Street, on the east side, from Highway 92 south to West Seventh Avenue.

61. South Buxton Street, on the west side, from West Seventh Avenue to the south end of the cul-de-sac.

62. North C Street, on the east side, from West Lincoln Avenue to Girard Avenue.

63. North C Street, on the east side, from Clinton Avenue to Highway 92.

64. North C Street, on the west side, from Clinton Avenue to Girard Avenue.

65. North C Street, on the west side, from Lincoln Avenue to the north end of North C Street.

66. North C Street, on the west side, from West Lincoln Avenue to the north line of Lot 8, Country Club Knolls Addition.

67. Caroline Terrace East, on the north side, from Ann Parkway to Stephen Court.

68. East Clinton Avenue, on the south side, from 9th Street east to the dead end.

69. Clinton Avenue West, on the north side, from the southeast corner of Lot 6, Kenwood Kourt to the southwest corner of Lot 47, Whittier Addition.

70. West Clinton Avenue, on south side, from the northeast corner of Lot 12, Kenwood Kourt, west to Kenwood Boulevard.

71. West Clinton Avenue, on the north side adjacent to Irving Elementary School, from 8:00 a.m. to 4:00 p.m. on days when the Indianola Community Schools are in session.

72. Country Club Road, on the west side, from Lincoln Avenue to the north end of County Club Road.

73. Country Club Road, on the west side, from the northeast corner of Lot 14, County Club Heights south to West Lincoln Avenue.

74. North D Street, on the east side, from the southwest corner of Lot 2 south to the northwest corner of Lot W, Delno Smiths Subdivision.

75. North D Street, on the east side, from Detroit Avenue to Girard Avenue.

76. South D Street, on the east side, from West Franklin Avenue to West Fifth Avenue.

77. East Detroit Avenue, on the south side, from North Fourteenth Street to North Fifteenth Street.

78. West Detroit Avenue, on the south side, from North D Street to North J Street.

79. West Detroit Avenue, on the south side, from North K Street to North L Street.

80. West Detroit Avenue, on the south side, from North N Street to the end of the cul-de-sac.

81. East Detroit Avenue, on the south side, from Outlot 85 east to Eighth Street.

82. North E Street, on the east side, from the centerline of West Detroit Avenue to a point 90 feet north of the centerline of West Detroit Avenue.

83. North E Street, on the west side, from Detroit Avenue to Lincoln Avenue.

84. South E Street, on the west side, from Highway 92 south to the end of the street as it now exists.

85. East Euclid Avenue, on the south side, from North Fourteenth Street to North Fifteenth Street.

86. West Euclid Avenue, on the south side, from 100 feet east of North N Street westward to the end of the pavement.

87. West Euclid Avenue, on the south side, from North G Street west to the northwest corner of Lot 38, Whittier Addition.

88. F Street, on the west side, from West Detroit Avenue south to the southeast corner of Block 3, Wesley Cheshires Addition.

89. Fairway Drive, on the east side, from Sunset Drive to Scott Felton Road and on the west side from north of Orchard Avenue to the end of Fairway Drive.

90. East Franklin Avenue, on the south side, from North Sixth Street Place to Ninth Street.

91. East Franklin Avenue, on the south side, from North 15th Street to the end of the cul-de-sac.

92. West Franklin Street, on the south side, from North D Street to North C Street.

93. West Franklin Avenue, on the south side, from North Kenwood Boulevard to "O" Street.

94. South Freeman Street, on the west side, from Highway 92 south to the southeast corner of Lot 8, Block 1, Wesley Cheshires Addition.

95. G Street, on the west side, from the first driveway south of West Second Avenue north to the dead end.

96. South G Street, on the east side, from West Second Avenue to the south end of South G Street.

97. Girard Avenue, on the south side, from North E Street to Jefferson Way and on the south side in Prairie View Subdivision, and on the south side west of North O Street to the end of the cul-de-sac and on the south side from North Jefferson Way to North 6th Street.

98. East Girard Avenue, on the south side, from Seventh Street to Tenth Street.

99. East Girard Avenue, on the south side, from North Ninth Street to the east end of East Girard Avenue.

100. East Girard Avenue, on the south side, from North Fourteenth Street to the west lot line of Lot 17, Easton Park Addition.

101. H Street, on the west side, from West Detroit Avenue to West 12th Avenue.

102. Henderson Avenue, on the south side, from First Street to North D Street and on the north side of Prairie View Subdivision, and on the south side from North 9th Street east to cul-de-sac and on the south side from North 9th Street west to cul-de-sac and on the south side west of Kenwood Boulevard.

103. Howard Street, on the east side, from the east-west alley in Block 2, Aders Addition to Jackson Avenue.

104. South Howard Street, on the east side, from Highway 92 south to West Seventh Avenue.

105. I Street, on the west side, from West Euclid Avenue to West Boston Avenue.

106. I Street, on the west side, from West Iowa Avenue to the south lot line of Lot 5, Green Meadows Addition.

107. Iowa Avenue, on the south side, from Kenwood Boulevard to First Street.

108. Iowa Avenue, on the south side, from Jefferson Way to North Fifteenth Street.

109. Iowa Avenue, on the north side, from Jefferson Way to North Sixth Street.

110. Iowa Avenue, on the north side, from North Fourteenth Street to North Fifteenth Street.

111. Iowa Avenue, on the north side, between North Sixth Street and North Fourteenth Street, from 7:00 a.m. to 6:00 p.m. on Mondays through Fridays, inclusive.

112. Iowa Highway 65 and 69, otherwise known as Jefferson or Second Street, on either side, within the city.

113. Iowa Highway 92, otherwise known as Second Avenue, on either side, within the city.

114. J Street, on the west side, from West Iowa Avenue to West Second Avenue.

115. Jackson Avenue, on the south side, from Buxton Street to North B Street.

116. Jackson Avenue, on the south side, from North D Street to North E Street and from North O Street eastward to the end of the cul-de-sac.

117. North Howard Street, on both sides, no parking here to corner in the 300 block.

118. K Street, on the west side, from West Euclid Avenue to West Clinton Avenue.

119. Kentucky Avenue, on the south side, from North C Street to a point 130 feet east of the intersection with North Seventh Street and on the north side, from a point 150 feet west of the west edge of Kensington Court to Lincoln Avenue and on the north side from North O Street east to the dead end, and on the north side for the first 50 feet west of the intersection with North 6th Street.

120. L Street, on the west side, from West Clinton Avenue to West Boston Avenue.

121. L Street, on the west side, from West Detroit Avenue to West Clinton Avenue and from West Iowa Avenue north to and including the cul-de-sac.

122. M Street, on the west side, from West Boston Avenue to West Salem Avenue.

123. Madison Place, on the south side, from North B Street to the end of the cul-de-sac.

124. North N Street, on the west side, from West Boston Avenue to Euclid Avenue.

125. North N Street, on the west side, from West Euclid Avenue to "O" Street.

126. South N Street, on the east side, from Highway 92 to Lot 10, Block 1, Buxtons Addition.

127. South N Street, on the west side, from West Third Avenue to West Fifth Avenue.

128. Norwood Place, on the south side, from C Street to the end of the cul-de-sac.

129. Norwood Place, on the south side, from North C Street to the west end of the cul-de-sac.

130. North O Street, on the west side, from West Detroit Avenue to West Euclid Avenue and on the east side from West Iowa Avenue north to the dead end.

131. "O" Street, on the east side, from West Third Avenue to West Fourth Avenue and from Franklin Avenue north to the cul-de-sac.

132. South O Street, on the west side, from West Fifth Avenue to West Sixth Avenue and from South N Court north to the dead end.

133. Orchard Avenue, on the south side, from Highway 65/69 to the west end of Orchard Avenue.

134. South P Street, on the west side, from West Salem Avenue to West Sixth Avenue.

135. South Q Street, on the west side, from West Fourth Avenue to West Fifth Avenue.

136. South R Street, on the west side, from a point 1,460 feet south of West Fourth Avenue to and including the cul-de-sac at the south end of South R Street.

137. South R Street, on the east side, from a point 1,220 feet south of West Fourth Avenue to and including the cul-de-sac at the south end of South R Street.

138. Robin Glen, on the south side, from Stephen Court to Caroline Terrace and from North E Street to the end of the cul-de-sac.

139. East Salem Avenue, on either side, from the alley running between North First Street and Jefferson Way to Jefferson Way.

140. East Salem Avenue, on the south side, from Third Street to Ninth Street.

141. West Salem Avenue, on the south side, from B Street to 180 feet west of J Street.

142. West Salem Avenue, on the south side, from Kenwood Boulevard east to South J Street.

143. Scott Felton Road, on the south side, from Country Club Road west to the northwest corner of Lot 41, Country Club Heights.

144. Scott Felton Road, on the south side, from Country Club Road to Tawnya Terrace.

145. Stephen Court, on the east side, from Caroline Terrace south to West Iowa Avenue.

146. Stephen Court, on the west side, from Caroline Terrace to Angela Drive.

147. Sunset Drive, on the south side, from Country Club Road to and including the cul-de-sac at the west end of Sunset Drive.

148. Tawnya Terrace, on the west side, from Angela Drive to Scott Felton Road.

149. Valley Place, on the south side, from Apple Drive to the east end of Valley Place.

150. East Boston Avenue, on the south side, from North Fourteenth Street to North Eighteenth Street and from North Third Street to North Fifth Street.

151. West Boston Avenue, on the south side, from North Howard Street to the west end of West Boston Avenue.

152. West Boston Avenue, on the north side, from North Howard Street to the first alley west of North Howard Street.

153. Fourteenth Street, on the west side, from East Iowa Avenue to East Boston Avenue.

154. Fifteenth Street, on the west side, from Iowa Highway 92 to Plainview Avenue.

155. Plainview Avenue, on the north side, from South Fifteenth Street to a point 600 feet west.

156. Fifth Street, on the east side, no parking between signs in the 500 Block north.

157. Ninth Street, on the east side, from Highway 92 north to East Trail Ridge Place.

158. North Ninth Street, on the west side, from East Iowa Avenue north to East Hillcrest Avenue and from East Ashland Avenue north to the beginning of the paved parking across North Ninth Street from real estate locally known as 304 North Ninth Street; and for 24 feet on either side of the Summerset Trail.

159. Iowa Avenue, on the south side, from Lot 10 Green Meadows Addition to Jefferson Way.

160. Spruce Street, on the west side, north of Highway 92.

161. Wesley Lane, on the west side, from Robin Glen to Angela Drive.

162. U Street, on the west side, in Prairie View Subdivision.

163. V Street, on the west side, in Prairie View Subdivision.

164. Kensington Court on the west side.

165. Lincoln Avenue, on the south side, and for 24 feet on either side of the Summerset Trail.

166. 16th Street, on the west side, from Boston Avenue north to the dead end.

167. Quail Ridge, on the south side.

168. Trail Ridge, on the south side.

169. Scenic Valley Drive, on the south side, west of Country Club Road to the end of Scenic Valley Drive, and on E. Scenic Valley Avenue, on the north side, from North Jefferson Way to North Third Lane.

170. East Twelfth Avenue, on the south side, from Highway 65/69 to South Fourth Street.

171. East Thirteenth Place, on the south side, from South Third Street to South Fourth Street.

172. East Fifteenth Place, on the south side, from South Third Street east to the end of East Fifteenth Place.

173. East Sixteenth Avenue, on the south side, from South Third Street east to the end of East Sixteenth Avenue.

174. East Fourteenth Place, on the south side, from South Third Street east to the end of East Fourteenth Place.

175. South Fourth Street, on the west side, from East Twelfth Street to East Thirteenth Place.

176. T Street, on the east side, in Prairie View Subdivision.

177. S Street, on the east side, in Prairie View Subdivision.

178. Lancaster Way, on the west side, from Lincoln Avenue south to and including the cul-de-sac.

179. West 4th, on the south side, from R-63 west to and including the cul-de-sac.

180. Lundahl Court, on the west side, from Orchard Avenue south to the end of the cul-de-sac.

181. Phillip Place, on the south side, from Apple Drive west to the cul-de-sac.

182. Apple Lane, on the south side, from Apple Drive to Rolling Vista.

183. Rolling Vista, on the south side, from Hillcrest Avenue west to Apple Lane.

184. Apple Circle, on the south side, from Apple Drive to the end of the cul-de-sac.

185. North 17th, on the west side, from Boston north to the dead end.

186. Madison Avenue, on the south side, from North 9th Street west to the end of the cul-de-sac.

187. 19th Street, on the west side, from East First Avenue north to the cul-de-sac.

188. 20th Street, on the west side, from Iowa Highway 92 to the dead end.

189. W Street, on the west side, from West Euclid Avenue north to West Henderson Avenue.

190. West 14th Avenue, on the south side, from South K Street to South N Street.

191. South N Court, on the west side, from West 14th Avenue south to the dead end.

192. West 13th Avenue, on the north side, from South O Street to South R Street.

193. South B Court, on the west side, from West 17th Street south to the dead end.

194. West 18th Place, on the north side, between South B Court and South E Drive.

195. South E Drive, on the east side, from West 17th Street south to the dead end.

196. West 19th Place, on the north side, between South B Court and South E Drive.

197. North Seventh Court, on the west side.

198. Summit Place, on the north side, from North Ninth Street to North Eighth Street.

199. East Trail Ridge Place, on the north side, from North Ninth Street to North Eighth Street.

200. Scenic Valley Court, on the north side, from North Ninth Street to the cul-de-sac.

201. East Second Avenue, on the north and south sides, from South Fifteenth Street eastward to the City limits.

202. North Eighteenth Street from East Boston Avenue north to the dead end.

203. Boston Place, on the north side, from North Eighteenth Street to the cul-de-sac.

204. North Third Lane, on the north side.

205. South Y Street, on the east and west sides, south of West Second Avenue.

[The next page is 27]

ALL NIGHT PARKING PROHIBITED. No person shall park a vehicle on the public square or on each street intersecting with the public square for a distance of one block from the intersection of the street with the public square between the hours of 2:00 a.m. to 5:00 a.m.

PARKING LIMITED TO THREE HOURS. It is unlawful to park any vehicle for a continuous period of more than three (3) hours, between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m. on each weekday, except on Sunday or a national holiday, on the public square or on each street intersecting with the public square for a distance of one block from the intersection of the street with the public square.

ILLEGAL OFF-STREET PARKING. No person shall drive, stop, stand or park a vehicle on or upon privately owned property or an area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of the privately owned property or facility. Such parking shall place the vehicle in the status of an illegally parked vehicle and, upon complaint of the owner, lessee or person in charge of the privately owned property or facility, the vehicle may be issued a citation and/or removed by the police department or by another City department.

PERSONS WITH DISABILITIES PARKING. The following areas are designated as persons with disabilities parking spaces.

1. A curb space eighteen (18) feet in length on the west side of south Howard Street in front of the building locally known as 103 West First Avenue.

2. Four (4) parking spaces in the public square.

3. Two curb spaces eighteen (18) feet in length on the West side of South First Street one hundred fifty (150) feet south of the centerline of East Salem Avenue.

4. A curb space eighteen (18) feet in length on the west side of South D Street two hundred eighty-five (285) feet south of the centerline of Iowa Highway 92.

5. A curb space eighteen (18) feet in length on the south side of Ashland Avenue. in the half-block directly east of First Street.

6. Five (5) parking spaces on the north side of East First Avenue in front of the building locally known as 200 East First Avenue.

7. Three (3) parking spaces in the city-owned parking lot behind the Senior Center located at 214 West Salem Avenue.

8. Two (2) parking spaces on the west side of North First Street in front of the building locally known as 805 North First Street.

9. One (1) parking space on the east side of North B Street on the west side of the building locally known as 225 West Ashland Avenue.

10. One (1) parking space at Moats Park.

11. One (1) parking space at Irving School.

12. One (1) parking space on the west side of South Buxton Street on the east side of the building locally known as 201 West First Street.

13. One (1) parking space near the intersection of Clinton Avenue and B Street.

14. A curb space eighteen (18) feet in length near the south door of the Indianola Public Library at 207 North B Street.

15. Two (2) parking spaces at McCord Park.

16. Three (3) parking spaces at Pickard Park near the picnic shelter.

17. One (1) parking space in the Pickard Park south parking lot.

18. One (1) van accessible parking space on North C Street near Buxton Park.

19. One parking space on the east side of North Buxton Street in front of the building locally known as 406 North Buxton Street.

20. One parking space on the south side of East Salem Avenue in front of the building locally known as 115 East Salem Avenue.

21. One parking space on the north side of Boston Avenue on the south side of the building locally known as 1410 West Boston (Redeemer Lutheran Church). The exact location of the restricted area shall be determined by the City Manager and posted accordingly.

22. One parking space on the south side of the 100 Block of East Ashland. The exact location of the restricted area shall be determined by the City Manager and posted accordingly.

ONE-WAY STREETS AND ALLEYS. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction:

1. All traffic around the public square shall move in a counterclockwise direction.

2. All alleys intersecting with the public square shall be used for the sole purpose of exit from the square for a distance of one hundred fifty (150) feet.

3. The alley running east and west in Block 14 of the original town plat shall be westbound only.

4. Howard Street from Highway 92 to Kentucky Avenue shall be northbound only.

5. Buxton Street from Kentucky Avenue to Highway 92 shall be southbound only.

6. D Street from Girard Avenue to Detroit Avenue shall be southbound only.

7. C Street from Clinton Avenue to Girard Avenue shall be northbound only.

8. The alley running north and south in Block 12 of the original town plat shall be southbound only.

9. The alley running east and west in Block 13, Windle's Addition shall be westbound only up to the northwest corner of the building locally known as 604 N. Jefferson Way.

SNOWMOBILE ROUTES. The following streets are designated as snowmobile routes within the City.

1. Country Club Road from Iowa Avenue on the south to the north City limits.

2. Euclid Avenue from North J Street on the east to Northwest 17th Street on the west

3. Euclid Avenue from 6th Street on the east to Highway 65-69 on the west.

4. Hillcrest Avenue from 15th Street on the west to the east City limits.

5. Iowa Avenue from North J Street on the west to the east City limits.

6. Kenwood Boulevard from Second Avenue on the south to Euclid Avenue on the north.

7. North J Street from Euclid Avenue on the south to Iowa Avenue on the north.

8. Northwest 17th Street from West Euclid Avenue on the south to the north City limits.

9. Plainview Avenue from the east City limits to South Jefferson Way on the west.

10. Waterworks Road from West Second Avenue on the north to the South City limits.

11. 6th Street from Iowa Avenue on the north to Euclid Avenue on the South.

12. 15th Street from the north City limits to the south City limits.

13. The closest route between an operators residence and one of the above designated routes shall also be considered a snowmobile route.

SPECIAL SPEED ZONES. The following special speed zones have been established.

1. Special 10 MPH Speed Zones. A speed in excess of ten miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. Within any mobile home park.

2. Special 25 MPH Speed Zones. A speed in excess of twenty-five miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On East Plainview Avenue from Hwy. 65/69 to South Fifteenth Street.

   B. On West Euclid from Kenwood Boulevard to "Y" Street.

   C. On East Iowa Avenue. from North Eighth Street to North Fifteenth Street.

   D. On Fifteenth Street from East Iowa Avenue to the south corporate limits.

3. Special 30 MPH Speed Zones. A speed in excess of thirty miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On Second Avenue from 100'± east of Third Street to 50'± east of Fourth Street.

   B. On Jefferson Way from 100'± north of Plainview Avenue to 150'± north of Euclid Avenue.

   C. On West 17th Street from US Highway 65/69 to South K Street.

   D. On South K Street from Iowa Highway 92 to West 17th Street.

   E. On all of North and South Y Street.

   F. On West 12th Street from South G Street to South K Street.

   G. On East Iowa Avenue from North 15th Street eastward to the City limit.

4. 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 Second Avenue from 50'± east of Fourth Street to 500'± east of Eighth Street.

B. On Jefferson Way from 150'± north of Euclid Avenue to 500'± north of Kentucky Avenue.

C. On North 9th Street from E Hillcrest Avenue to 1,300 feet south of Hillcrest Avenue.

5. Special 40 MPH Speed Zones. A speed in excess of forty miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Second Avenue from 400'± west of "R" Street to 100'± east of Third Avenue.

B. On Jefferson Way from 500'± north of Kentucky Avenue to 1300'± north of Kentucky Avenue.

6. Special 45 MPH Speed Zones. A speed in excess of forty-five miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Second Avenue from 500'± east of Eighth Street to the east corporate limit.

B. On Jefferson Way from Station 487± to 100'± north of Plainview Avenue.

C. On East Hillcrest Avenue from Hwy. 65/69 to the east corporate limit.

D. On Jefferson Way from Valley Drive to Hillcrest Avenue.

7. Special 50 MPH Speed Zones. A speed in excess of fifty miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Jefferson Way from 1300'± north of Kentucky Avenue to Station 602±.

B. On Second Avenue from 200'± west of "Y" Street to 400'± west of "R" Street.

C. On Jefferson Way from 12th Avenue to 17th Avenue.

8. Special 55 MPH Speed Zones. A speed in excess of fifty-five miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Jefferson Way from the south corporate limit to Station 487±.

B. On Jefferson Way from Station 602± to the north corporate limit.

Additional Sections for Possible Future Use

SCHOOL CROSSING ZONES. The following intersections have been designated as school crossing zones

(Code of Iowa, Sec. 321.249)

1. Intersection of _____ and _____;
2. Intersection of _____ and _____;
3. Intersection of _____ and _____;
4. Intersection of _____ and _____.
5. Intersection of _____ and _____.
6. Intersection of _____ and _____.

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

(Code of Iowa, Sec. 321.256)

1. Intersection of _____ and _____;
2. Intersection of _____ and _____;
3. Intersection of _____ and _____;
4. Intersection of _____ and _____.
5. Intersection of _____ and _____.
6. Intersection of _____ and _____.

LOAD LIMITS UPON CERTAIN STREETS. The following load limits have been established on certain streets within the City.

(Code of Iowa, Sec. 321.473 & 475)

1. _____ ton limit on _____ from _____ to _____;
2. _____ ton limit on _____ from _____ to _____;
3. _____ ton limit on _____ from _____ to _____;

4. _____ ton limit on _____ from _____ to _____;

5. _____ ton limit on _____ from _____ to _____;

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

(Code of Iowa, Sec. 321.473)

1. _____ from _____ to _____;
2. _____ from _____ to _____;
3. _____ from _____ to _____.
4. _____ from _____ to _____;
5. _____ from _____ to _____;

PARKING LIMITED TO _____. It is unlawful to park any vehicle for a continuous period of more than _____ between the hours of _____ o'clock (_____)__.m. and _____ o'clock (_____)__.m. on each weekday except _____, and between the hours of _____ o'clock (_____)__.m. and _____ o'clock (___)__.m. upon the following designated streets:

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

1. _____, on the _____ side from _____ to _____;
2. _____, on the _____ side from _____ to _____;
3. _____, on the _____ side from _____ to _____.

SNOW ROUTES. The following streets within the City have been designated as snow routes.

1. _____ from _____ to _____;
2. _____ from _____ to _____;
3. _____ from _____ to _____.
4. _____ from _____ to _____;
5. _____ from _____ to _____;
6. _____ from _____ to _____;
7. _____ from _____ to _____;
8. _____ from _____ to _____.
9. _____ from _____ to _____;
10. _____ from _____ to _____;

RIGHT TURN ON RED SIGNAL PROHIBITED. Vehicular traffic facing a steady red signal shall not proceed or make a right turn at the following locations when appropriate signs are in place.

(Code of Iowa, Sec. 321.257 [2])

1. At the intersection of _____ and _____;
2. At the intersection of _____ and _____;
3. At the intersection of _____ and _____.

LEFT TURN ON RED SIGNAL PROHIBITED. Vehicular traffic facing a steady red signal shall not proceed or make a left turn at the following locations when appropriate signs are in place.

(Code of Iowa, Sec. 321.257 [2])

1. At the intersection of _____ and _____;
2. At the intersection of _____ and _____;
3. At the intersection of _____ and _____.

NO TURNS PERMITTED. When appropriate signs are in place no driver shall make either a right or left turn at the following locations.

(Code of Iowa, Sec. 321.311)

1. At the intersection of _____ and _____;
2. At the intersection of _____ and _____;
3. At the intersection of _____ and _____.