AGENDA

REGULAR MEETING OF THE
WINDSOR HEIGHTS CITY COUNCIL
Monday, June 15, 2026 - 6:00 PM
WINDSOR HEIGHTS COUNCIL CHAMBERS - 1133 66th ST
ZOOM: https://us02web.zoom.us/j/7832856334
Meeting ID: 783 285 6334

Notice to the Public: If you would like the supporting documents and information, please call City Hall by noon the day of the meeting. Copies of City Council Agendas are free to the public. In consideration of all, if you have a cell phone, please turn it off or put it on silent ring. The use of obscene and vulgar language, hate speech, racial slurs, slanderous comments, and any other disruptive behavior during the Council meeting will not be tolerated and the offender may be barred by the presiding officer from further comment before the Council during the meeting and/or removed from the meeting.

1. **Call to Order/Roll Call/Pledge of Allegiance**

2. **Approval of the Agenda**

3. **Presentation:**

   A. Presentation from Mid Iowa Narcotics Enforcement Task Force

4. **Public Forum:** This is time set aside for comments from the public on topics of City business other than those listed on the agenda. No action may be taken. Please come to the podium, state your name and address for the record and keep your comments to no more than 5 minutes.

5. **Consent Agenda:** Any item on the Consent Agenda may be removed for separate consideration.

   A. Approve Minutes of the Regular Council Meeting on June 1, 2026
   B. Approve Financial Reports
   C. Approve 68th St. Reconstruction Project Pay Request 10
   D. Approve 73rd Street Phase 1 STP-U-8477(615)—70-77 Pay Request 20
   E. Approve 74th Street Reconstruction Project Pay Request 1
   F. Approve Walnut Creek Water Access Project Pay Request 4
   G. Approve Resolution No. 2026-39 - A Resolution Waiving CEC Fees for a Memorial Service for Former Windsor Heights Mayor Dave Burgess
   H. Approve Resolution No. 2026-40 - A Resolution Waiving CEC Fees for Poetry Palooza, A Committee of the Iowa Poetry Association
   I. Approve Resolution No. 2026-41 - A Resolution Waiving CEC Fees for the Youth St. Vincent De Paul Conference Associated with St. Theresa Catholic School

The agenda was posted on the official bulletin boards, posted to www.windsorheights.org, and city social media platforms in compliance with the requirements of city ordinances and the open meetings law. Scan the QR Code to visit our online Agenda Center. Select the meeting date and view the agenda packet including supporting documents and staff reports.

J. Approve Resolution No. 2026-42 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Urban Renewal Administration and Professional Support Program)

K. Approve Resolution No. 2026-43 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Property Acquisition, Demolition and Site Preparation Project-1122 65th Street)

L. Approve Resolution No. 2026-44 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Colby Park Improvements Project)

M. Approve Resolution No. 2026-46 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (University Avenue Corridor Property Acquisition, Demolition and Site Preparation)

N. Approve Resolution No. 2026-47 - A Resolution Approving FY26 IPAIT Transfers for the City of Windsor Heights

O. Approve Resolution No. 2026-48 - A Resolution Approving FY26 Year End Transfers for the City of Windsor Heights.

6. **Action Items:**

A. Consideration of Tobacco and Alcohol Licenses for Pump & Pantry - 7220 Hickman Road

B. Consideration of Tobacco License for Caseys - 6961 University Ave

C. Consideration of the 3rd Reading of Ordinance 26-01 - An Ordinance Adopting the "Code of Ordinances of the City of Windsor Heights, Iowa"; and to Adopt and Publish

D. Consideration of the Annual Fee Schedule Update

E. Consideration of FY27 ERP Purchase Mini Excavator

7. **Reports:**

A. Mayor, Council Reports and Committee Updates, and Administration Reports

B. Senate File 2472 Property Tax Bill & Strategic Planning

C. Minutes of the Public Works Committee on June 4, 2026

D. Minutes of the Public Art Committee on June 9th, 2026

8. **Adjourn**

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City of Windsor Heights Regular Business Meeting Minutes
Monday, June 1, 2026 - 6:00 PM
WINDSOR HEIGHTS COUNCIL CHAMBERS - 1133 66th ST

1. **Call to Order/Roll Call/Pledge of Allegiance**

   Mayor Mike Jones called the meeting to order at 6:00 PM. Members present: Susan Skeries, Joseph Jones, Lauren Campbell, Fletcher Barry and Threase Harms. Staff present: City Administrator Adam Plagge City Clerk Adam Strait, Finance Director Rachelle Swisher, Fire Chief Jim Mease, Police Chief Pete Roth, Public Works Director Andy Larson, City Attorney Erin Clanton,

2. **Approval of the Agenda**

   Motion by Threase Harms to APPROVE. Seconded by Susan Skeries. Motion passed 5-0.

3. **Public Forum:** This is time set aside for comments from the public on topics of City business other than those listed on the agenda. No action may be taken. Please come to the podium, state your name and address for the record and keep your comments to no more than 5 minutes.

   No public comment.

4. **Consent Agenda:** Any item on the Consent Agenda may be removed for separate consideration.

   Motion by Threase Harms to APPROVE. Seconded by Susan Skeries. Motion passed 5-0.

   A. Approve Minutes of the Regular Council Meeting on May 18, 2026

   B. Approve Financial Reports

   C. Approve 68th Street Improvements Change Order 6

   D. Approve 73rd Street Phase 1 STP-U-8477(615)—70-77 Change Order 11

5. **Action Items:**

   A. Consideration of the Second Reading of Ordinance 26-01 - An Ordinance Adopting the "Code of Ordinances of the City of Windsor Heights, Iowa"

      Adam Strait reported that no additional edits or recommendations had been received since the previous meeting and that previously approved revisions had been submitted for incorporation into the updated draft ahead of the third reading. Susan Skeries inquired whether proposed revisions related to nuisance lighting, such as indoor lighting shining into homes, and residential floodlights had been included in the recodification. Staff indicated they would review the ordinance and provide an update at the third reading. It was noted that floodlights are addressed within the nuisance code of Chapter 50. Motion by Threase Harms to APPROVE. Seconded by Susan Skeries. Motion passed 5-0.

   B. Consideration of Resolution No. 2026-38 - A Resolution authorizing the execution and delivery of amendments to the Fifth Supplemental Indenture of Trust for the benefit of ChildServe, Inc. and its Subsidiaries

      Adam Plagge presented an overview of the amendments. No further discussion was held. Motion by Joseph Jones to APPROVE. Seconded by Threase Harms. Motion passed 5-0.

   C. Discuss Process to Draft Electric Scooter and Mobility Device Ordinance

Staff introduced a discussion on developing an ordinance for electric scooters and other motorized mobility devices, noting that several metro cities, including Ankeny, Clive, and Waukee, have adopted or are drafting similar regulations. Staff suggested using existing models, including Ankeny's ordinance and Bicycle Coalition drafts, as a basis for a Windsor Heights approach, with a goal of returning a proposal to Council later this fall. Council supported referring the item to the Public Safety Committee for initial review beginning June 18. Members noted the potential need for additional stakeholder input or an ad hoc group but agreed the committee process was appropriate. Discussion focused on the importance of clear definitions for device types, alignment with Iowa Code, and consistent rules for use on trails, sidewalks, and roadways. Members also raised safety and enforcement concerns, particularly involving underage operators, improper vehicle classification, and lack of lighting or safety equipment. Staff and Council agreed the issue would likely require multiple work sessions to develop a comprehensive ordinance framework.

6. **Reports:**

A. Mayor, Council Reports and Committee Updates, and Administration Reports

- Councilor Theresa Harms attended a meeting of the Polk County Cancer Coalition, led by Polk County Public Health, and joined the coalition's Prevention Work Group. She noted the need for greater participation by local elected officials and encouraged the Council to consider how Windsor Heights can support efforts to reduce cancer risk within the community. Discussion focused on cancer incidence data, with smoking identified as the leading cause of both cancer diagnoses and cancer-related deaths in Polk County. Councilor Harms has requested information on local tobacco retailers to help evaluate potential policy considerations and emphasized the importance of continuing Windsor Heights' commitment to tobacco- and nicotine-free public facilities and grounds. Councilor Harms also encouraged the City to consider a broader community cancer prevention strategy, including public education on radon, water quality, and other environmental health concerns. She noted recent reports of elevated radon levels in local homes and highlighted the availability of free radon testing resources. Additionally, she thanked everyone involved in the successful Touch-a-Truck event, reported that the Personnel and Finance Committee continues to make progress on ongoing initiatives, and noted that the Benefits Ad Hoc Committee is scheduled to meet on June 10.
- Councilor Lauren Campbell attended the recent Touch-a-Truck event and assisted as needed throughout the day. She expressed her appreciation to Public Works, Police, Fire, and City Hall staff, as well as Susan and Ashlyn from the Children's Museum, for their efforts in organizing and coordinating the successful event. Councilor Campbell also reminded residents that the next Movies in the Park event will feature Zootopia 2 on Friday evening. She noted that she will be participating in the Washington, D.C. trip beginning Wednesday and will return Friday in time to attend the movie event.
- Councilor Fletcher Barry attended the ICON Water Trails Executive Briefing, where community leaders and stakeholders received updates on the organization's progress throughout the metro area, including developments related to the Colby Park access site. He also volunteered at the recent Touch-a-Truck event and thanked the organizers, staff, and volunteers who helped make the event a success. Councilor Barry noted the positive feedback received from residents, guests, and vendors. Councilor Barry also attended a DART tour of the new Route 4 and expressed support for the agency's efforts to improve regional transit connections. He highlighted the importance of Windsor Heights' role in the transit network, with two DART routes serving the community. Additionally, he looks forward to representing Windsor Heights on the

upcoming DM to DC trip and the opportunity to advocate for the community at the federal level.

- Councilor Joseph Jones reported that DART's new service is scheduled to begin on Sunday, June 14, with a commission meeting planned to continue discussions regarding implementation and related matters. Councilor Jones also reminded residents that the primary election is tomorrow and encouraged those who have not yet voted to do so. Polls will be open from 7:00 a.m. to 8:00 p.m.
- Councilor Susan Skeries thanked the many volunteers, staff members, and community partners who helped make the recent Touch-a-Truck event a success. Despite some transportation challenges involving the event shuttle, attendees remained positive and enjoyed the event. She also noted that feedback from participants indicated the shuttle service remained a valuable amenity and encouraged attendance. Councilor Skeries reminded residents that the next Movies in the Park event will take place this Friday and will feature Zootopia 2, along with several vendors and participation from the Des Moines Public Library. She also attended a DART tour of the new Route 4 and expressed enthusiasm for the expanded transit options, particularly the increased connectivity between Windsor Heights and destinations throughout the metro. Councilor Skeries noted that the tour provided valuable insight into the new service and highlighted Windsor Heights' strong representation among elected officials participating in the event.
- Mayor Jones noted that City Administrator Adam Plagge and him were in talks with the Polk County Housing Trust to present to Council on their housing dashboard and housing opportunities in Windsor Heights.
- City Administrator Adam Plagge reported that the Fire-EMS Collaboration Study continues to progress, with consultants expected to provide a draft report by the end of June. He also reminded residents that stormwater utility rates will increase from $9.00 to $9.50 per Equivalent Residential Unit (ERU) effective July 1, 2026, in accordance with the rate schedule adopted in the 2024 stormwater ordinance. Staff will coordinate public notifications through utility bill inserts, the City website, and other communication channels. Additionally, he provided an update on the 73rd Street reconstruction project, noting that the park trail is open, but the 73rd Street Trail is expected to remain closed until late July to ensure public safety while construction continues. Mr. Plagge also informed the Council that Central Iowa Water Works remains under a Stage 2 Water Shortage Plan, which includes a voluntary 50% reduction in outdoor water use. To support conservation efforts, staff proposed reduced operating hours for the Colby Park splash pad based on the severity of water restrictions while maintaining access during peak-use periods. Council came to a consensus that they were in agreement with the proposed hours with additional discussion to be held at the upcoming Public Works Committee meeting. He noted that staff will continue monitoring conditions, communicate any operational changes through multiple channels, and seek to balance water conservation goals with community recreation needs.

B. Public Safety Annual Report

C. Fire – EMS Collaboration Study Update

D. Stormwater Rate Report

E. 73rd Street Trail Closure Update

F. Stage II Water Alert and Splash Pad Operational Hours Reduction Plan

7. **Adjourn**

Motion by Threase Harms to adjourn at 6:49 PM. Seconded by Susan Skeries. Motion Passed 5-0.

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Mike Jones, Mayor

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Adam Strait, City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Rachelle Swisher, Finance Director

SUBJECT: Approve Financial Reports

GENERAL INFORMATION

ATTACHMENTS

1. Claims List 6.10.26

CITY OF WINDSOR HEIGHTS

*Check Detail Register©

Batch: PAY20260112.00,PAY20260112.01,060126PAY,060326PAY,PRL-060526,PRL-6526S,060526PAY

Check #	Check Date	Vendor Name		Amount	Invoice	Comment
1110 CASH						
1126 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$24.59	580976405	7001 UNIV AVE
			Total	$24.59		
1127 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$26.49	580976414	6300 UNIV AVE
			Total	$26.49		
1128 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$23.63	581001952	1140 73RD ST
			Total	$23.63		
1129 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 001-150-6371		UTILITIES		$474.80	581006237	1133 66TH ST
			Total	$474.80		
1130 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-210-6371		UTILITIES		$170.85	580991858	6800 SCHOOL ST
			Total	$170.85		
1131 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$23.77	580991523	7116 UNIV AVE
			Total	$23.77		
1132 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$25.00	580996580	951 73RD ST
			Total	$25.00		
1133 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-210-6371		UTILITIES		$187.46	580991939	6800 SCHOOL ST
			Total	$187.46		
1134 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 001-620-6371		UTILITIES		$128.23	581006591	1145 66TH ST
			Total	$128.23		
1135 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$103.46	581003477	6540 UNIV AVE
			Total	$103.46		
1136 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$24.93	581001597	7290 UNIV AVE
			Total	$24.93		
1137 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$13.96	581001087	1601 73RD ST
			Total	$13.96		
1138 e	06/03/26	**MIDAMERICAN ENERGY CO**				
E 110-230-6371		UTILITIES		$78.51	580997593	6739 UNIV AVE
			Total	$78.51		
1139 e	06/03/26	**MIDAMERICAN ENERGY CO**				

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Batch: PAY20260112.00,PAY20260112.01,060126PAY,060326PAY,PRL-060526,PRL-6526S,060526PAY

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
E 001-480-6371		UTILITIES	$25.30	580992013	6900 SCHOOL ST
		Total	$25.30		
1140 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 110-230-6371		UTILITIES	$26.03	580983141	2227 63RD ST
		Total	$26.03		
1141 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 110-230-6371		UTILITIES	$33.40	580977424	1145 73RD ST
		Total	$33.40		
1142 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 001-480-6371		UTILITIES	$53.08	580976918	6900 SCHOOL ST
		Total	$53.08		
1143 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 110-230-6371		UTILITIES	$47.62	580975907	6440 HICKMAN RD
		Total	$47.62		
1144 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 110-230-6371		UTILITIES	$10.00	580974994	1804 73RD ST
		Total	$10.00		
1145 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 110-230-6371		UTILITIES	$16.21	580974697	6410 HICKMAN RD
		Total	$16.21		
1146 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 001-480-6371		UTILITIES	$18.92	581034846	6900 SCHOOL ST
		Total	$18.92		
1147 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 110-230-6371		UTILITIES	$28.56	580515146	801 73RD ST
		Total	$28.56		
1148 e	06/03/26	**MIDAMERICAN ENERGY CO**			
E 110-230-6371		UTILITIES	$3,165.49	581125992	STREET LIGHTS
		Total	$3,165.49		
1149 e	06/04/26	**FEDERAL TAX DEPOSIT**			
G 001-2120		FEDERAL W/H PAYABLE	$12,812.96		
G 001-2121		FICA W/H PAYABLE	$17,856.20		
		Total	$30,669.16		
1150 e	06/04/26	**ISOLVED BENEFIT SERVICES**			
G 001-2131		FSA AND DEPENDENT C	$1,405.00		
		Total	$1,405.00		
1151 e	06/04/26	**STATE OF IOWA**			
G 001-2122		STATE W/H PAYABLE	$3,342.90		
		Total	$3,342.90		
1152 e	06/04/26	**ICMA RETIREMENT TRUST**			
G 001-2125		DEF COMP PAYABLE IC	$396.99		ICMA DEFERRED COMP

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Batch: PAY20260112.00,PAY20260112.01,060126PAY,060326PAY,PRL-060526,PRL-6526S,060526PAY

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
G 001-2125		DEF COMP PAYABLE IC	$2,183.39		ICMA - EMPLOYER
		Total	$2,580.38		
1153 e	06/04/26	**ASSURITY**			
G 001-2128		ASSURITY	$10.21		SWISHER, RACHELLE ASSURITY
G 001-2128		ASSURITY	$18.31		AHRENS, TYLER ASSURITY
G 001-2128		ASSURITY	$5.88		BROWN, CODY ASSURITY
G 001-2128		ASSURITY	$36.07		DAVISON, MARK ASSURITY
G 001-2128		ASSURITY	$45.10		IRLBECK, MICHAEL ASSURITY
G 001-2128		ASSURITY	$33.62		MEASE, JAMES ASSURITY
G 001-2128		ASSURITY	$18.75		NORRIS, CHAD ASSURITY
G 001-2128		ASSURITY	$19.70		PRICE, JEFF ASSURITY
G 001-2128		ASSURITY	$16.84		ROBERTS, JASON ASSURITY
G 001-2128		ASSURITY	$39.82		ROTH, PETE ASSURITY
G 001-2128		ASSURITY	$9.84		STRAIT, ADAM ASSURITY
		Total	$254.14		
1154 e	06/04/26	**IPERS**			
G 001-2123		IPERS PAYABLE	$18,597.23		
		Total	$18,597.23		
1155 e	06/04/26	**FEDERAL TAX DEPOSIT**			
G 001-2120		FEDERAL W/H PAYABLE	$283.03		
G 001-2121		FICA W/H PAYABLE	$371.24		
		Total	$654.27		
1156 e	06/04/26	**STATE OF IOWA**			
G 001-2122		STATE W/H PAYABLE	$54.21		
		Total	$54.21		
60332	06/02/26	**AIRGAS**			
E 001-160-6498		MEDICAL SUPPLIES	$5.40	5524106830	OXYGEN
		Total	$5.40		
60333	06/02/26	**AMAZON CAPITAL SERVICES**			
E 001-150-6504		MINOR EQUIPMENT	$161.52	144P-VM9N-	GAS METER SENSORS
E 001-470-6499		MISC/REFUNDS	($40.41)	16RN-Q67T-	RETURN OF BIRD HOUSES
E 001-470-6499		MISC/REFUNDS	($40.41)	177V-YV1G-	RETURN OF BIRD HOUSES
E 001-470-6499		MISC/REFUNDS	($40.41)	177V-YV1G-	RETURN OF BIRD HOUSES
E 001-160-6350		REPAIR-EQUIPMENT	$37.98	1DWT-XNFT-	IPAD SCREEN PROTECTORS
E 001-470-6499		MISC/REFUNDS	$409.09	1X3W-KV1X-	BIRD HOUSES FOR EARTH DAY
		Total	$487.36		
60334	06/02/26	**AMERICAN ALARMS**			
E 001-150-6310		BUILDING REPAIR	$498.62	I-11941	ALARM MONITORING
		Total	$498.62		
60335	06/02/26	**BOUND TREE MEDICAL LLC**			
E 001-160-6498		MEDICAL SUPPLIES	$40.98	86200365	MEDICAL SUPPLIES
E 001-160-6498		MEDICAL SUPPLIES	$1,128.05	86213759	MEDICAL SUPPLIES
		Total	$1,169.03		
60336	06/02/26	**BREESE, TAMMY**			

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Batch: PAY20260112.00,PAY20260112.01,060126PAY,060326PAY,PRL-060526,PRL-6526S,060526PAY

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
E 001-110-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60337	06/02/26	**BRICK GENTRY PC**			
E 001-640-6411		LEGAL	$2,440.00	476730	MARCH 2026 LEGAL FEES
E 001-110-6411		LEGAL	$1,490.00	476730	MARCH 2026 LEGAL FEES
E 001-150-6411		LEGAL	$230.00	476730	MARCH 2026 LEGAL FEES
E 001-110-6411		LEGAL	$1,570.00	476731	MARCH 2026 LEGAL FEES
E 001-110-6411		LEGAL	$1,380.00	479472	APRIL2026 LEGAL FEES
E 001-150-6411		LEGAL	$630.33	479472	APRIL 2026 LEGAL FEES
E 001-640-6411		LEGAL	$4,424.67	479472	APRIL 2026 LEGAL FEES
E 001-110-6411		LEGAL	$1,760.00	479473	APRIL 2026 LEGAL FEES
		Total	$13,925.00		
60338	06/02/26	**CATCH DES MOINES**			
E 001-460-6421		CULT SVCS - CONVENTI	$146.54	25155	MAY HOTEL/MOTEL TAX
		Total	$146.54		
60339	06/02/26	**CE PRINT + PROMO**			
E 001-620-6374		NEWSLETTERS	$980.00		MAY 2026 NEWSLETTER
		Total	$980.00		
60340	06/02/26	**CHARLES & RUTH COLBY DEV TRUST**			
E 001-520-6491		TIF REBATES	$40,478.00		DEVELOPMENT REBATE 6/1/2026 PAYMENT
		Total	$40,478.00		
60341	06/02/26	**CITY OF WEST DES MOINES**			
E 001-110-6373		COMMUNICATIONS	$14,016.37	FN-2026-004	WESTCOM JUNE 2026
		Total	$14,016.37		
60342	06/02/26	**CONSTRUCTION MATERIALS TESTING**			
E 326-210-6761		CAP OUTLAY	$2,164.00	59109	68TH ST MATERIALS TESTING
		Total	$2,164.00		
60343	06/02/26	**CRYSTAL CLEAR WATER CO.**			
E 001-620-6506		OFFICE SUPPLIES	$10.99	310210	SUPPLIES
		Total	$10.99		
60344	06/02/26	**CYNTOX LLC**			
E 001-160-6507		OPERATING SUPPLIES	$447.22	324364	MEDICAL WASTE REMOVAL
		Total	$447.22		
60345	06/02/26	**DES MOINES PUBLIC LIBRARY**			
E 001-410-6413		CONTRIBUTIONS & PAY	$17,389.11	05042026-04	4TH QTR FY26 PAYMENT
		Total	$17,389.11		
60346	06/02/26	**FBI NATIONAL ACADEMY ASSOC INC**			
E 001-110-6230		TRAINING	$550.00		TRAINING
		Total	$550.00		
60347	06/02/26	**GIGDAY BACKLINE LLC**			
E 001-470-6497		FALL FESTIVAL	$500.00	1716	FALL FEST SOUND SYSTEM
		Total	$500.00		

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Batch: PAY20260112.00,PAY20260112.01,060126PAY,060326PAY,PRL-060526,PRL-6526S,060526PAY

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
60348	06/02/26	**GODDARD, NATE**			
E 001-150-6180		ALLOWANCES	$134.85		CLOTHING ALLOWANCE
		Total	$134.85		
60349	06/02/26	**HELIX PEST SOLUTIONS LLC**			
E 001-150-6310		BUILDING REPAIR	$35.00	5076	PEST CONTROL PSB
		Total	$35.00		
60350	06/02/26	**INDEPENDENT PUBLIC ADVISO**			
E 001-620-6490		OTHER PROF SERVICE	$4,500.00	WIN2026-1	3RD & 4TH QTR RETAINER FY26
		Total	$4,500.00		
60351	06/02/26	**IOWA MEDICAID ENTERPRISE**			
E 001-160-6413		CONTRIBUTIONS & PAY	$5,154.64	050826 95	JUNE 2026 GEMT MCO PAYMENT
		Total	$5,154.64		
60352	06/02/26	**IOWA SOLUTIONS INC**			
E 001-615-6419		TECHNOLOGY SERVICE	$3,781.00	100428	IT SERVICES
		Total	$3,781.00		
60353	06/02/26	**JONES, BRIAN**			
E 001-150-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60354	06/02/26	**LASHIER GRAPHICS & SIGNS**			
E 001-480-6402		ADVERTISING/MARKETI	$1,655.00	36934	CEC MARKETING FLAGS
		Total	$1,655.00		
60355	06/02/26	**LEUTHOLD, NATE**			
E 001-620-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60356	06/02/26	**MEASE, JIM**			
E 001-150-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60357	06/02/26	**MED COMPASS MOBILE HEALTH SERV**			
E 001-150-6150		INSURANCE	$1,940.00	49591	STAFF NFPA PHYSICALS
		Total	$1,940.00		
60358	06/02/26	**MERCY ONE CLIVE PHARMACY**			
E 001-160-6498		MEDICAL SUPPLIES	$1.43	379	MEDICATIONS
E 001-160-6498		MEDICAL SUPPLIES	$8.00	399	MEDICATIONS
		Total	$9.43		
60359	06/02/26	**METRO WASTE AUTHORITY**			
E 670-840-6490		OTHER PROF SERVICE	$9,303.20	70032829	CURB IT FEES
E 670-840-6413		CONTRIBUTIONS & PAY	$22,575.53	70032830	GARBAGE FEES
		Total	$31,878.73		
60360	06/02/26	**MID-IOWA ASSN LOCAL GOVT**			
E 001-610-6413		CONTRIBUTIONS & PAY	$781.57		FY26-27 DUES
		Total	$781.57		

*Check Detail Register©

Batch: PAY20260112.00,PAY20260112.01,060126PAY,060326PAY,PRL-060526,PRL-6526S,060526PAY

Check #	Check Date	Vendor Name	Amount	Invoice	Comment
60361	06/02/26	**MUERNER, MARK**			
E 001-150-6180		ALLOWANCES	$45.00		CLOTHING ALLOWANCE
E 001-150-6180		ALLOWANCES	$196.90		CLOTHING ALLOWANCE
		Total	$241.90		
60362	06/02/26	**NORRIS, CHAD**			
E 001-110-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60363	06/02/26	**PLAGGE, ADAM**			
E 001-620-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60364	06/02/26	**PREMIER AUTOMOTIVE**			
E 001-110-6332		REPAIR - VEHICLES & E	$32.10	9076810	CAR 36 TIRE REPAIR
		Total	$32.10		
60365	06/02/26	**SAM'S CLUB DIRECT**			
E 001-150-6507		OPERATING SUPPLIES	$146.89		CLEANING SUPPLIES
		Total	$146.89		
60366	06/02/26	**STANDARD INSURANCE COMPANY**			
E 112-110-6150		INSURANCE	$1,073.88		LIFE/LTD/STD
E 112-150-6150		INSURANCE	$387.09		LIFE/LTD/STD
E 112-210-6150		INSURANCE	$440.22		LIFE/LTD/STD
E 112-620-6150		INSURANCE	$364.77		LIFE/LTD/STD
		Total	$2,265.96		
60367	06/02/26	**STRAIT, ADAM**			
E 001-620-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60368	06/02/26	**SWISHER, RACHELLE**			
E 001-620-6373		COMMUNICATIONS	$80.00		MAY CELL PHONE
		Total	$80.00		
60369	06/02/26	**URBANDALE CHAMBER OF COMMERCE**			
E 001-610-6240		MEETING/CONFERENCE	$250.00	96399	DC DINNER JJONES, CAMPBELL
E 001-620-6240		MEETING/CONFERENCE	$125.00	96399	DC DINNER STRAIT
		Total	$375.00		
60370	06/02/26	**ZWC CONDO ASSOC**			
E 001-620-6310		BUILDING REPAIR	$53.50		PEST CONTROL
		Total	$53.50		
60371	06/04/26	**MANHATTANLIFE**			
G 001-2132		MANHATTAN LIFE	$31.25		DAVISON, MARK
G 001-2132		MANHATTAN LIFE	$3.38		JONES, BRIAN
G 001-2132		MANHATTAN LIFE	$22.42		MEASE, JAMES
G 001-2132		MANHATTAN LIFE	$6.63		PRICE, JEFF
G 001-2132		MANHATTAN LIFE	$21.60		ROBERTS, JASON
G 001-2132		MANHATTAN LIFE	$11.13		ROTH, PETE
G 001-2132		MANHATTAN LIFE	$10.00		STAPLETON, BRIAN

CITY OF WINDSOR HEIGHTS

*Check Detail Register©

Batch: PAY20260112.00,PAY20260112.01,060126PAY,060326PAY,PRL-060526,PRL-6526S,060526PAY

Check #	Check Date	Vendor Name		Amount	Invoice	Comment
			Total	$106.41		
60372	06/05/26	**SEXTON JR., STEPHEN C.**				
E 112-620-6129		ICMA RETIREMENT TRU		$30,457.19		METLIFE CONTRACT V264032
			Total	$30,457.19		
			1110	$239,244.39		

Fund Summary

1110 CASH	
001 GENERAL	$168,448.55
110 ROAD USE TAX	$4,029.96
112 EMPLOYEE BENEFITS	$32,723.15
326 68TH STREET SOUTH	$2,164.00
670 GARBAGE/RECYCLING	$31,878.73
	$239,244.39

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM:

SUBJECT: Approve 68th St. Reconstruction Project Pay Request 10

GENERAL INFORMATION

ATTACHMENTS

1. Staff Report
2. Pay Application_010-1
3. LTR-68th Street-Pay App 10-1

Staff Report

To: Mayor and City Council
From: Justin Ernst, City Engineer
Date: June 11, 2026
Subject: 68th Street Improvements Pay Application 9

GENERAL INFORMATION

See included letter and pay application.

City of Windsor Heights - Iowa

Detailed Payment

68th Street Improvements

Description	Reconstruction of 68th Street
Payment Number	10
Pay Period	05/01/2026 to 05/31/2026
Prime Contractor	SHEKAR ENGINEERING, PLC
Payment Status	Pending
Awarded Project Amount	$1,878,164.17
Authorized Amount	$1,907,705.29

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
Section: 0001 - Base Bid - Quantities										
0001	2010-C	LS	$10,237.500	1.000	0.000	1.000	1.000	1.000	$0.00	$10,237.50
CLEARING AND GRUBBING										
0002	2010-D-1	CY	$10.200	948.000	0.000	237.000	237.000	237.000	$0.00	$2,417.40
TOPSOIL, ON-SITE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0003	2010-E	CY	$15.300	2,606.000	0.000	1,565.000	1,565.000	1,565.000	$0.00	$23,944.50
EXCAVATION, CLASS 10										
0004	2010-F	CY	$20.400	795.000	0.000	297.502	297.502	297.502	$0.00	$6,069.04
BELOW GRADE EXCAVATION (CORE OUT)										
0005	2010-G	SY	$1.020	7,950.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBGRADE PREPARATION										
0006	2010-I	SY	$2.040	795.000	0.000	1,396.456	1,396.456	1,396.456	$0.00	$2,848.77
SUBGRADE TREATMENT, GEOGRID, TYPE 2										
0007	2010-J	SY	$16.830	7,950.000	0.000	7,288.501	7,288.501	7,288.501	$0.00	$122,665.47
SUBBASE, MODIFIED, 8 INCHES										
0008	3010-D	CY	$81.600	100.000	0.000	157.300	157.300	157.300	$0.00	$12,835.68
REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL										
0009	4020-A-1	LF	$44.280	12.000	0.000	8.000	8.000	8.000	$0.00	$354.24
STORM SEWER, TRENCHED, PP, 8 INCH										
0010	4020-A-1	LF	$46.890	1,550.000	0.000	1,556.900	1,556.900	1,556.900	$0.00	$73,003.04
STORM SEWER, TRENCHED, 15 INCH										
0011	4020-A-1	LF	$83.040	27.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER, TRENCHED, 18 INCH										
0012	4020-A-1	LF	$151.470	47.000	0.000	42.000	42.000	42.000	$0.00	$6,361.74
STORM SEWER, TRENCHED, 36 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0013	4020-A-1	LF	$232.490	50.000	0.000	40.000	40.000	40.000	$0.00	$9,299.60
STORM SEWER, TRENCHED, RCP, 37" X 23" ARCH										
0014	4020-D	LF	$9.930	348.000	0.000	148.000	148.000	148.000	$0.00	$1,469.64
REMOVAL OF STORM SEWER, LESS THAN 36 INCH										
0015	4040-A	LF	$14.520	3,330.000	0.000	3,403.300	3,403.300	3,403.300	$0.00	$49,415.92
SUBDRAIN, PERFORATED HDPE, 6 INCH										
0016	4040-C-1	EA	$501.030	16.000	0.000	10.000	10.000	10.000	$0.00	$5,010.30
SUBDRAIN CLEANOUT, TYPE A-1, 6 INCH										
0017	4040-D-1	EA	$475.310	14.000	0.000	12.000	12.000	12.000	$0.00	$5,703.72
SUBDRAIN OUTLETS AND CONNECTIONS, CMP, 6 INCH										
0018	4050-H-1	EA	$5,397.010	3.000	0.000	14.500	14.500	14.500	$0.00	$78,256.65
SPOT REPAIRS BY PIPE REPLACEMENT, PVC, 4 INCH										
0019	SPEC. PROV.	LF	$790.910	10.000	0.000	16.000	16.000	16.000	$0.00	$12,654.56
WATER MAIN, TRENCHED, PVC C900 (DR 18), 6 INCH WITH TRACER WIRE										
0020	SPEC. PROV.	LF	$50.630	1,880.000	0.000	1,847.300	1,847.300	1,847.300	$0.00	$93,528.80
WATER MAIN, TRENCHED, PVC C900 (DR 18), 8 INCH WITH TRACER WIRE										
0021	SPEC. PROV.	LB	$8.580	1,779.000	0.000	2,241.000	2,241.000	2,241.000	$0.00	$19,227.78
FITTING BY WEIGHT, DUCTILE IRON										
0022	SPEC. PROV.	EA	$1,264.190	23.000	0.000	23.000	23.000	23.000	$0.00	$29,076.37
WATER SERVICE TRANSFER, COPPER, 1 INCH , SAME SIDE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0023	SPEC. PROV.	EA	$2,022.360	26.000	0.000	26.000	26.000	26.000	$0.00	$52,581.36
WATER SERVICE TRANSFER, COPPER, 1 INCH, OPPOSITE SIDE										
0024	SPEC. PROV.	LF	$8.220	410.000	0.000	155.300	155.300	155.300	$0.00	$1,276.57
WATER MAIN REMOVAL										
0025	SPEC. PROV.	EA	$2,210.620	1.000	0.000	3.000	3.000	3.000	$0.00	$6,631.86
VALVE, GATE, 6 INCH										
0026	SPEC. PROV.	EA	$2,923.700	4.000	0.000	6.000	6.000	6.000	$0.00	$17,542.20
VALVE, GATE, 8 INCH										
0027	SPEC. PROV.	EA	$7,946.350	5.000	0.000	6.000	6.000	6.000	$0.00	$47,678.10
FIRE HYDRANT ASSEMBLY										
0028	SPEC. PROV.	EA	$1,439.150	5.000	0.000	3.000	3.000	3.000	$0.00	$4,317.45
FLUSHING DEVICE (BLOW OFF), 4 INCH										
0029	SPEC. PROV.	EA	$727.440	5.000	0.000	4.000	4.000	4.000	$0.00	$2,909.76
FIRE HYDRANT ASSEMBLY REMOVAL										
0030	SPEC. PROV.	EA	$92.130	3.000	0.000	1.000	1.000	1.000	$0.00	$92.13
VALVE BOX REMOVAL										
0031	SPEC. PROV.	EA	$524.630	49.000	0.000	51.000	51.000	51.000	$0.00	$26,756.13
TAP FEE, 1", REPLACE TAP FOR WATER SERVICE										
0032	SPEC. PROV.	EA	$2,228.390	3.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PREPARE EXCAVATION FOR TAPPING SLEEVE AND VALVE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0033	6010-A	EA	$6,546.880	1.000	0.000	1.000	1.000	1.000	$0.00	$6,546.88
STORM MANHOLE, SW-401, 60 INCH										
0034	6010-A	EA	$8,531.000	1.000	0.000	1.000	1.000	1.000	$0.00	$8,531.00
STORM MANHOLE, SW-401, 72 INCH										
0035	6010-B	EA	$4,066.390	1.000	0.000	0.500	0.500	0.500	$0.00	$2,033.20
INTAKE, SW-501										
0036	6010-B	EA	$5,673.030	12.000	0.000	9.500	9.500	9.500	$0.00	$53,893.79
INTAKE, SW-505										
0037	6010-B	EA	$4,046.560	2.000	0.500	1.500	2.000	2.000	$2,023.28	$8,093.12
INTAKE, SW-507										
0038	6010-B	EA	$2,042.730	2.000	0.000	2.000	2.000	2.000	$0.00	$4,085.46
INTAKE, SW-512										
0039	6010-B	EA	$11,693.510	1.000	0.000	1.000	1.000	1.000	$0.00	$11,693.51
INTAKE, SW-516, MODIFIED										
0040	6010-E	EA	$2,002.560	5.000	0.000	7.000	7.000	7.000	$0.00	$14,017.92
SANITARY MANHOLE ADJUSTMENT, MINOR										
0041	6010-E	EA	$1,458.720	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM MANHOLE ADJUSTMENT, MINOR										
0042	6010-F	EA	$3,385.790	3.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SANITARY MANHOLE ADJUSTMENT, MAJOR										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0043	6010-G	EA	$784.810	1.000	0.000	1.000	1.000	1.000	$0.00	$784.81
CONNECTION TO EXISTING MANHOLE										
0044	6010-H	EA	$889.920	9.000	0.000	5.000	5.000	5.000	$0.00	$4,449.60
REMOVE INTAKE										
0045	7010-A	SY	$57.260	6,100.000	31.830	6,006.943	6,038.773	6,038.773	$1,822.58	$345,780.14
PAVEMENT, PCC, 7 INCH										
0046	7010-A	SY	$123.170	200.000	0.000	167.000	167.000	167.000	$0.00	$20,569.39
PAVEMENT, PCC, 10 INCH										
0047	7010-999-A	LF	$1.020	12,350.000	0.000	4,831.000	4,831.000	4,831.000	$0.00	$4,927.62
JOINT PREVENTATIVE SEALANT										
0048	7010-N	SY	$5.250	1,800.000	0.000	0.000	0.000	0.000	$0.00	$0.00
COLD WEATHER PROTECTION										
0049	7030-A-1	SY	$10.200	100.000	0.000	117.700	117.700	117.700	$0.00	$1,200.54
REMOVAL OF SIDEWALK										
0050	7030-A-3	SY	$10.200	1,190.000	0.000	1,347.000	1,347.000	1,347.000	$0.00	$13,739.40
REMOVAL OF DRIVEWAY										
0051	7030-E	SY	$45.900	820.000	178.790	568.560	747.350	747.350	$8,206.47	$34,303.37
SIDEWALK, PCC, 4 INCH										
0052	7030-E	SY	$66.300	10.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SIDEWALK, PCC, 4 INCH, REINFORCED										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0053	7030-E	SY	$56.100	130.000	13.770	100.200	113.970	113.970	$772.50	$6,393.72
SIDEWALK, PCC, 6 INCH										
0054	7030-G	SY	$51.000	96.000	20.000	76.800	96.800	96.800	$1,020.00	$4,936.80
DETECTABLE WARNING										
0055	7030-H-1	SY	$59.670	1,020.000	179.500	856.180	1,035.680	1,035.680	$10,710.77	$61,799.03
DRIVEWAY, PAVED, PCC, 6 INCH										
0056	7030-H-3	TON	$45.900	50.000	0.000	11.500	11.500	11.500	$0.00	$527.85
TEMPORARY GRANULAR SURFACING, CLASS A ROAD STONE										
0057	7040-H	SY	$12.140	5,630.000	0.000	5,630.000	5,630.000	5,630.000	$0.00	$68,348.20
PAVEMENT REMOVAL										
0058	8020-C	STA	$1,785.000	2.000	0.000	2.000	2.000	2.000	$0.00	$3,570.00
PAINTED PAVEMENT MARKINGS, DURABLE										
0059	8020-M	STA	$918.000	2.000	0.000	2.000	2.000	2.000	$0.00	$1,836.00
GROOVES CUT FOR PAVEMENT MARKINGS										
0060	8030-A	LS	$13,158.000	1.000	0.000	0.800	0.800	0.800	$0.00	$10,526.40
TEMPORARY TRAFFIC CONTROL										
0061	8040-A	EA	$153.000	13.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TRAFFIC SIGNS, TYPE A										
0062	8040-D	EA	$204.000	13.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PERFORATED SQUARE STEEL TUBE POSTS										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0063	9010-D	MGAL	$71.400	93.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATERING										
0064	9020-A	SQ	$66.300	350.000	0.000	236.460	236.460	236.460	$0.00	$15,677.30
SOD										
0065	9030-B	EA	$408.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PLANTS WITH WARRANTY, ORNAMENTAL TREE										
0066	9030-B	EA	$464.100	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PLANTS WITH WARRANTY, DECIDUOUS TREE										
0067	9040-A-1	LS	$1,530.000	1.000	0.000	1.000	1.000	1.000	$0.00	$1,530.00
SWPPP PREPARATION										
0068	9040-A-2	LS	$3,468.000	1.000	0.050	0.850	0.900	0.900	$173.40	$3,121.20
SWPPP MANAGEMENT										
0069	9040-D-1	LF	$1.730	6,000.000	0.000	742.000	742.000	742.000	$0.00	$1,283.66
FILTER SOCK, 9 INCH										
0070	9040-O-1	SY	$10.200	300.000	0.000	242.000	242.000	242.000	$0.00	$2,468.40
STABILIZED CONSTRUCTION ENTRANCE										
0071	9040-Q-2	AC	$1,489.200	1.000	0.000	0.498	0.498	0.498	$0.00	$741.62
EROSION CONTROL MULCHING, HYDRO MULCHING										
0072	9040-T-1	EA	$102.000	31.000	0.000	12.000	12.000	12.000	$0.00	$1,224.00
INLET PROTECTION DEVICE, MAINTENCE, AND REMOVAL										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0073	9070-A	SF	$49.980	160.000	0.000	0.000	0.000	0.000	$0.00	$0.00
MODULAR BLOCK RETAINING WALL										
0074	11020-A	LS	$109,882.500	1.000	0.000	1.000	1.000	1.000	$0.00	$109,882.50
MOBILIZATION										
0075	9040-D-1	LS	$4,725.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
MAINTENANCE OF POSTAL SERVICE										
0076	9040-O-1	LS	$5,250.000	1.000	0.100	0.300	0.400	0.400	$525.00	$2,100.00
MAINTENANCE OF SOLID WASTE COLLECTION										
0077	9040-Q-2	LS	$3,150.000	1.000	0.000	1.000	1.000	1.000	$0.00	$3,150.00
TEMPORARY PEDESTRIAN RESIDENTIAL ACCESS										
0078	11030-A	LS	$3,672.000	1.000	0.000	0.900	0.900	0.900	$0.00	$3,304.80
CONCRETE WASHOUT										
8010	2599-9999010	LS	$2,410.320	1.000	0.000	1.000	1.000	1.000	$0.00	$2,410.32
('LUMP SUM' ITEM): Water Main Casing Pipe - School Street & 68th Street										
8020	2599-9999010	LS	$4,058.400	1.000	0.000	1.000	1.000	1.000	$0.00	$4,058.40
('LUMP SUM' ITEM): Sanitary Sewer Wye Replacement										
8030	2599-9999005	EACH	$1,904.970	1.000	0.000	1.000	1.000	1.000	$0.00	$1,904.97
('EACH' ITEM): Sump Connection with Yard Drain Box										
8050	2599-9999005	EACH	$2,154.510	1.000	0.000	1.000	1.000	1.000	$0.00	$2,154.51
('EACH' ITEM): MH-10, SW-406, 5'x4'										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
8060	2599-9999010	LS	$3,192.390	1.000	0.000	1.000	1.000	1.000	$0.00	$3,192.39
('LUMP SUM' ITEM): Temporary Storm Sewer Connection (Mott Ave. & 68th St.)										
8070	2599-9999010	LS	$11,205.480	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('LUMP SUM' ITEM): DIP Water Main (University Ave. & 68th St.)										
8080	2599-9999010	LS	$3,085.500	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('LUMP SUM' ITEM): Trench Drain and PVC Yard Drain (6800 University Ave.)										
								Section Totals:	$25,254.00	$1,574,958.10
Section: 0002 - Alternate A - Quantities										
8040	2599-9999005	EACH	$1,529.550	1.000	0.000	1.000	1.000	1.000	$0.00	$1,529.55
('EACH' ITEM): MH-09 Alt A, SW-406, 6'x4'										
A1	2010-C	LS	$12,285.000	1.000	0.000	1.000	1.000	1.000	$0.00	$12,285.00
CLEARING AND GRUBBING										
A2	2010-D-1	CY	$10.200	156.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TOPSOIL, ON-SITE										
A3	2010-E	CY	$15.300	309.000	0.000	309.000	309.000	309.000	$0.00	$4,727.70
EXCAVATION, CLASS 10										
A4	2010-F	CY	$20.400	102.000	0.000	0.000	0.000	0.000	$0.00	$0.00
BELOW GRADE EXCAVATION (CORE OUT)										
A5	2010-G	SY	$1.020	1,020.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBGRADE PREPARATION										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A6	2010-I	SY	$2.040	102.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBGRADE TREATMENT, GEOGRID, TYPE 2										
A7	2010-J	SY	$16.830	1,020.000	0.000	899.100	899.100	899.100	$0.00	$15,131.85
SUBBASE, MODIFIED, 8 INCHES										
A8	3010-D	CY	$81.600	30.000	0.000	0.000	0.000	0.000	$0.00	$0.00
REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL										
A9	4020-A-1	LF	$109.720	145.000	0.000	141.400	141.400	141.400	$0.00	$15,514.41
STORM SEWER, TRENCHED, 36 INCH										
A10	4020-A-1	LF	$237.760	132.000	0.000	132.000	132.000	132.000	$0.00	$31,384.32
STORM SEWER, TRENCHED, RCP, 44" X 27" ARCH										
A11	4020-D	LF	$10.060	275.000	0.000	275.000	275.000	275.000	$0.00	$2,766.50
REMOVAL OF STORM SEWER, LESS THAN 36 INCH										
A12	4040-A	LF	$13.950	524.000	0.000	514.000	514.000	514.000	$0.00	$7,170.30
SUBDRAIN, PERFORATED HDPE, 6 INCH										
A13	4040-C-1	EA	$500.960	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBDRAIN CLEANOUT, TYPE A-1, 6 INCH										
A14	4040-D-1	EA	$475.210	2.000	0.000	2.000	2.000	2.000	$0.00	$950.42
SUBDRAIN OUTLETS AND CONNECTIONS, CMP, 6 INCH										
A15	SPEC. PROV.	LF	$36.260	260.000	0.000	267.000	267.000	267.000	$0.00	$9,681.42
WATER MAIN, TRENCHED, PVC C900 (DR 18), 8 INCH WITH TRACER WIRE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A16	SPEC. PROV.	LB	$9.640	76.000	0.000	138.000	138.000	138.000	$0.00	$1,330.32
FITTING BY WEIGHT, DUCTILE IRON										
A17	SPEC. PROV.	LF	$8.250	40.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER MAIN REMOVAL										
A18	6010-A	EA	$8,088.270	1.000	0.000	1.000	1.000	1.000	$0.00	$8,088.27
STORM MANHOLE, SW-401, 72 INCH										
A19	6010-B	EA	$12,150.330	1.000	0.000	0.750	0.750	0.750	$0.00	$9,112.75
INTAKE, SW-516, MODIFIED										
A20	6010-E	EA	$1,261.680	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INTAKE ADJUSTMENT, MINOR										
A21	6010-H	EA	$917.530	1.000	0.000	1.000	1.000	1.000	$0.00	$917.53
REMOVE INTAKE										
A22	7010-A	SY	$57.260	800.000	0.000	784.900	784.900	784.900	$0.00	$44,943.37
PAVEMENT, PCC, 7 INCH										
A23	7010-999-A	LF	$1.020	1,804.000	0.000	0.000	0.000	0.000	$0.00	$0.00
JOINT PREVENTATIVE SEALANT										
A24	7030-A-1	SY	$10.200	10.000	0.000	0.000	0.000	0.000	$0.00	$0.00
REMOVAL OF SIDEWALK										
A25	7030-A-3	SY	$10.200	110.000	0.000	156.400	156.400	156.400	$0.00	$1,595.28
REMOVAL OF DRIVEWAY										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A26	7030-E	SY	$45.900	150.000	0.000	115.800	115.800	115.800	$0.00	$5,315.22
SIDEWALK, PCC, 4 INCH										
A27	7030-E	SY	$56.100	10.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SIDEWALK, PCC, 6 INCH										
A28	7030-G	SF	$51.000	20.000	0.000	0.000	0.000	0.000	$0.00	$0.00
DETECTABLE WARNING										
A29	7030-H-1	SY	$61.200	110.000	0.000	130.200	130.200	130.200	$0.00	$7,968.24
DRIVEWAY, PAVED, PCC, 6 INCH										
A30	7030-H-3	TON	$45.900	50.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TEMPORARY GRANULAR SURFACING, CLASS A ROAD STONE										
A31	7040-H	SY	$10.200	770.000	0.000	811.900	811.900	811.900	$0.00	$8,281.38
PAVEMENT REMOVAL										
A32	8040-A	EA	$459.000	3.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TRAFFIC SIGNS, TYPE A										
A33	8040-D	EA	$408.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PERFORATED SQUARE STEEL TUBE POSTS										
A34	9010-D	MGAL	$71.400	14.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATERING										
A35	9020-A	SQ	$66.300	50.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SOD										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
A36	9040-D-1	LF	$1.730	840.000	0.000	0.000	0.000	0.000	$0.00	$0.00
FILTER SOCK, 9 INCH										
A37	9040-T-1	EA	$122.400	4.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INLET PROTECTION DEVICE, MAINTENCE, AND REMOVAL										
A38	9060-D	LF	$57.750	80.000	0.000	30.000	30.000	30.000	$0.00	$1,732.50
REMOVAL AND REINSTALLATION OF EXISTING FENCE, CHAIN LINK FENCE, RESIDENTIAL										
A39	11040-A	LS	$1,890.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TEMPORARY PEDESTRIAN RESIDENTIAL ACCESS										
A40	11050-A	LS	$3,672.000	1.000	0.000	1.000	1.000	1.000	$0.00	$3,672.00
CONCRETE WASHOUT										
								Section Totals:	$0.00	$194,098.33
								Total Payments:	$25,254.00	$1,769,056.43

Time Charges

Time Limit	Original Deadline	Authorized Deadline	Charges This Period	Damages This Period	Days Completed To Date	Days Remaining To Date	Damages To Date
Final Completion - Liquidated Damages $500/Day	05/29/2026	05/29/2026	N/A	$0.00	N/A	-2.0 Days	$0.00
Substantial Completion - Liquidated Damages $500/Day	11/21/2025	11/23/2025	N/A	$0.00	N/A	-189.0 Days	$0.00
						Total Damages:	$0.00

Summary

Current Approved Work:	$25,254.00	**Approved Work To Date:**	$1,769,056.43
Current Stockpile Advancement:	$0.00	**Stockpile Advancement To Date:**	$0.00
Current Stockpile Recovery:	$0.00	**Stockpile Recovery To Date:**	$0.00
Current Retainage:	$1,262.70	**Retainage To Date:**	$88,452.82
Current Retainage Released:	$0.00	**Retainage Released To Date:**	$0.00
Current Liquidated Damages:	$0.00	**Liquidated Damages To Date:**	$0.00
Current Adjustment:	$0.00	**Adjustments To Date:**	$0.00
Current Payment:	$23,991.30	**Payments To Date:**	$1,680,603.61
Previous Payment:	$90,646.50	**Previous Payments To Date:**	$1,656,612.31

SIGNATURE LINE FOR PAYMENT REPORTS

ENGINEER'S CERTIFICATION:

In accordance with the Contract Documents, based on on-site observations and the data comprising this Payment Application, the Construction Project Manager certifies to the City of Windsor Heights that to the best of the Construction Project Manager's knowledge, information, and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and Contractor is entitled to payment of Amount Certified.

AMOUNT CERTIFIED: $ 23,991.30

By:_____ Date:_____

CONTRACTOR'S CERTIFICATION:

Contractor certifies that to the best of Contractor's knowledge, information and belief, the Work covered by this Payment Application has been completed in accordance with the Contract Documents, that all amounts have been paid by Contractor for Work for which payments were issued and payments received from the City of Windsor Heights, and that the current payment applied herein is now due.

By:_____ Date:_____

CITY OF WINDSOR HEIGHTS REVIEW / APPROVAL:

By:_____ Date:_____

BOLTON & MENK
Real People. Real Solutions.

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

June 11, 2026

Mr. Adam Plagge
City Administrator
City of Windsor Heights, Iowa

RE: 68th Street Improvements Project
Pay Request 10

Dear Mr. Plagge:

Submitted for your approval is Pay Request 10 for the above-mentioned project. Pay request is for a total payment of $23,991.30. The total payments to date: $1,680,603.61. Please see enclosure for a full summary of the items completed that are included in this payment.

Bolton & Menk, Inc., recommends the approval of Pay Request 10. Upon approval, please sign 3 copies in the space provided. Return one executed copy of the pay request to our office and one executed copy of the pay request to Shekar Engineering, P.L.C. with payment.

Please let me know if you have any questions.

Sincerely,

Bolton & Menk, Inc.

Justin Ernst, PE
Municipal Assistant Practice Leader, Principal

Enclosure

Bolton & Menk is an equal opportunity employer.

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Justin Ernst, City Engineer

SUBJECT: Approve 73rd Street Phase 1 STP-U-8477(615)—70-77 Pay Request 20

GENERAL INFORMATION

ATTACHMENTS

1. LTR-73rd Street-Pay App 20
2. payment_20_20260605

BOLTON & MENK
Real People. Real Solutions.

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

June 10, 2026

Mr. Adam Plagge
City Administrator
City of Windsor Heights, Iowa

RE: 73rd Street Phase 1
STP-U-8477(615)—70-77
Pay Request 20

Dear Mr. Plagge:

Submitted for your approval is Pay Request 20 for the above-mentioned project. The pay request is for a total payment of $341,629.63. The total payments to date: $5,491,238.88. Please see the pay request for a full summary of the items completed that are included in this payment.

Bolton & Menk, Inc., recommends the approval of Pay Application 20. Upon approval of the pay request, the City Clerk or City Administrator to electronically sign in DocExpress and mail payment to the Absolute Concrete Construction, Inc.

Please let me know if you have any questions.

Sincerely,

Bolton & Menk, Inc.

Justin Ernst, PE
Municipal Assistant Practice Leader | Principal

Enclosures

Bolton & Menk is an equal opportunity employer.

City of Windsor Heights - Iowa

Detailed Payment

77-8477-615

Description	STP-U-8477(615)--70-77, Letting Date- March 19, 2024 73rd st Phase 1
Payment Number	20
Pay Period	05/01/2026 to 05/31/2026
Prime Contractor	ABSOLUTE CONCRETE CONSTRUCTION, INC.
Payment Status	Pending
Awarded Project Amount	$6,739,027.05
Authorized Amount	$6,930,185.04

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
Section: 0001 - STP-U-8477(615)--70-77, Roadway Items - Division 1										
0010	2101-0850002	UNIT	$440.000	22.300	0.000	58.000	58.000	58.000	$0.00	$25,520.00
CLEARING AND GRUBBING										
0020	2102-0425071	CY	$50.000	50.000	0.000	234.000	234.000	234.000	$0.00	$11,700.00
SPECIAL BACKFILL										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0030	2102-2710070	CY	$15.000	10,333.000	0.000	7,749.750	7,749.750	7,749.750	$0.00	$116,246.25
EXCAVATION, CLASS 10, ROADWAY AND BORROW										
0040	2102-2710080	CY	$15.000	165.000	0.000	380.718	380.718	380.718	$0.00	$5,710.77
EXCAVATION, CLASS 10, UNSUITABLE OR UNSTABLE MATERIAL										
0050	2105-8425015	CY	$8.000	2,124.000	354.000	354.000	708.000	708.000	$2,832.00	$5,664.00
TOPSOIL, STRIP, SALVAGE AND SPREAD										
0060	2109-8225100	STA	$1,000.000	53.600	0.000	27.530	27.530	27.530	$0.00	$27,530.00
SPECIAL COMPACTION OF SUBGRADE										
0070	2113-0001100	SY	$5.000	5,000.000	0.000	558.922	558.922	558.922	$0.00	$2,794.61
SUBGRADE STABILIZATION MATERIAL, POLYMER GRID										
0080	2115-0100000	CY	$60.000	4,035.000	0.000	3,196.874	3,196.874	3,196.874	$0.00	$191,812.44
MODIFIED SUBBASE										
0090	2115-0100000	CY	$60.000	181.000	0.000	68.519	68.519	68.519	$0.00	$4,111.14
MODIFIED SUBBASE: , TRAIL										
0100	2123-7450020	STA	$150.000	81.700	0.000	35.500	35.500	35.500	$0.00	$5,325.00
SHOULDER FINISHING, EARTH										
0110	2301-1033080	SY	$75.000	19,678.000	0.000	15,202.968	15,202.968	15,202.968	$0.00	$1,140,222.60
STANDARD OR SLIP FORM PORTLAND CEMENT CONCRETE PAVEMENT, CLASS C, CLASS 3 DURABILITY, 8 IN.										
0120	2301-6911722	LS	$10,000.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PORTLAND CEMENT CONCRETE PAVEMENT SAMPLES										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0130	2304-0101000	SY	$60.000	1,500.000	0.000	139.675	139.675	139.675	$0.00	$8,380.50
TEMPORARY PAVEMENT										
0140	2312-8260051	TON	$40.000	500.000	0.000	631.050	631.050	631.050	$0.00	$25,242.00
GRANULAR SURFACING ON ROAD, CLASS A CRUSHED STONE										
0150	2435-0140148	EACH	$5,500.000	6.000	0.000	3.000	3.000	3.000	$0.00	$16,500.00
MANHOLE, STORM SEWER, SW-401, 48 IN.										
0160	2435-0140160	EACH	$7,800.000	6.000	0.000	6.000	6.000	6.000	$0.00	$46,800.00
MANHOLE, STORM SEWER, SW-401, 60 IN.										
0170	2435-0140172	EACH	$10,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$10,000.00
MANHOLE, STORM SEWER, SW-401, 72 IN.										
0180	2435-0140196	EACH	$17,000.000	0.000	0.000	0.000	0.000	0.000	$0.00	$0.00
MANHOLE, STORM SEWER, SW-401, 96 IN.										
0190	2435-0250500	EACH	$5,600.000	33.000	8.000	22.000	30.000	30.000	$44,800.00	$168,000.00
INTAKE, SW-505										
0200	2435-0250600	EACH	$12,000.000	16.000	2.000	15.000	17.000	17.000	$24,000.00	$204,000.00
INTAKE, SW-506										
0210	2435-0250900	EACH	$7,300.000	1.000	0.000	1.000	1.000	1.000	$0.00	$7,300.00
INTAKE, SW-509										
0220	2435-0251000	EACH	$8,500.000	3.000	0.000	3.000	3.000	3.000	$0.00	$25,500.00
INTAKE, SW-510										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0230	2435-0251230	EACH	$4,100.000	1.000	0.000	1.000	1.000	1.000	$0.00	$4,100.00
INTAKE, SW-512, 30 IN.										
0240	2435-0251236	EACH	$4,800.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INTAKE, SW-512, 36 IN.										
0250	2435-0600010	EACH	$2,300.000	33.000	0.000	22.000	22.000	22.000	$0.00	$50,600.00
MANHOLE ADJUSTMENT, MINOR										
0260	2435-0600020	EACH	$6,000.000	1.000	0.000	2.000	2.000	2.000	$0.00	$12,000.00
MANHOLE ADJUSTMENT, MAJOR										
0270	2435-0600110	EACH	$1,800.000	2.000	0.000	1.000	1.000	1.000	$0.00	$1,800.00
INTAKE ADJUSTMENT, MINOR										
0280	2435-0600120	EACH	$7,500.000	1.000	0.000	1.000	1.000	1.000	$0.00	$7,500.00
INTAKE ADJUSTMENT, MAJOR										
0290	2435-0700010	EACH	$3,700.000	2.000	0.000	3.000	3.000	3.000	$0.00	$11,100.00
CONNECTION TO EXISTING MANHOLE										
0300	2502-8212206	LF	$22.000	5,105.000	0.000	3,489.300	3,489.300	3,489.300	$0.00	$76,764.60
SUBDRAIN, PERFORATED PLASTIC PIPE, 6 IN. DIA.										
0310	2502-8221006	EACH	$800.000	17.000	0.000	2.000	2.000	2.000	$0.00	$1,600.00
SUBDRAIN RISER, 6 IN., AS PER PLAN										
0320	2502-8221303	EACH	$400.000	17.000	0.000	13.000	13.000	13.000	$0.00	$5,200.00
SUBDRAIN OUTLET, DR-303										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0330	2503-0114212	LF	$200.000	8.000	0.000	16.000	16.000	16.000	$0.00	$3,200.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 12 IN.										
0340	2503-0114215	LF	$80.000	991.000	80.000	757.000	837.000	837.000	$6,400.00	$66,960.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 15 IN.										
0350	2503-0114218	LF	$85.000	778.000	0.000	195.000	195.000	195.000	$0.00	$16,575.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 18 IN.										
0360	2503-0114224	LF	$110.000	2,556.000	0.000	2,209.000	2,209.000	2,209.000	$0.00	$242,990.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 24 IN.										
0370	2503-0114230	LF	$130.000	516.000	0.000	517.000	517.000	517.000	$0.00	$67,210.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 30 IN.										
0380	2503-0114236	LF	$170.000	80.000	0.000	94.000	94.000	94.000	$0.00	$15,980.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 36 IN.										
0390	2503-0114248	LF	$450.000	0.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 48 IN.										
0400	2503-0114254	LF	$610.000	8.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 54 IN.										
0410	2503-0114266	LF	$850.000	8.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP), 2000D (CLASS III), 66 IN.										
0420	2503-0200036	LF	$25.000	3,335.000	0.000	1,896.400	1,896.400	1,896.400	$0.00	$47,410.00
REMOVE STORM SEWER PIPE LESS THAN OR EQUAL TO 36 IN.										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0430	2503-0200136	LF	$45.000	14.000	0.000	38.000	38.000	38.000	$0.00	$1,710.00
REMOVE STORM SEWER PIPE GREATER THAN 36 IN.										
0440	2504-0200404	LF	$130.000	118.000	0.000	91.000	91.000	91.000	$0.00	$11,830.00
SANITARY SEWER SERVICE STUB, POLYVINYL CHLORIDE PIPE (PVC), 4 IN.										
0450	2510-6745850	SY	$10.000	17,965.000	0.000	17,965.000	17,965.000	17,965.000	$0.00	$179,650.00
REMOVAL OF PAVEMENT										
0460	2510-6750600	EACH	$900.000	48.000	0.000	38.000	38.000	38.000	$0.00	$34,200.00
REMOVAL OF INTAKES AND UTILITY ACCESSES										
0470	2511-0300000	SY	$10.000	550.000	0.000	370.596	370.596	370.596	$0.00	$3,705.96
REMOVAL OF RECREATIONAL TRAIL										
0480	2511-0302600	SY	$49.000	715.000	0.000	412.801	412.801	412.801	$0.00	$20,227.25
RECREATIONAL TRAIL, PORTLAND CEMENT CONCRETE, 6 IN.										
0490	2511-0310100	STA	$750.000	7.700	0.000	4.500	4.500	4.500	$0.00	$3,375.00
SPECIAL COMPACTION OF SUBGRADE FOR RECREATIONAL TRAIL										
0500	2511-6745900	SY	$10.000	3,506.000	0.000	2,759.540	2,759.540	2,759.540	$0.00	$27,595.40
REMOVAL OF SIDEWALK										
0510	2511-7526004	SY	$49.750	4,023.000	406.433	2,433.164	2,839.597	2,839.597	$20,220.04	$141,269.95
SIDEWALK, P.C. CONCRETE, 4 IN.										
0520	2511-7526006	SY	$77.000	267.000	14.744	275.984	290.728	290.728	$1,135.29	$22,386.06
SIDEWALK, P.C. CONCRETE, 6 IN.										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0530	2511-7528101	SF	$51.000	362.000	20.000	242.300	262.300	262.300	$1,020.00	$13,377.30
DETECTABLE WARNINGS										
0540	2512-1725206	LF	$79.000	10.000	0.000	0.000	0.000	0.000	$0.00	$0.00
CURB AND GUTTER, P.C. CONCRETE, 2.0 FT.										
0550	2514-0000200	STA	$1,000.000	0.500	0.000	0.000	0.000	0.000	$0.00	$0.00
REMOVAL OF CURB										
0560	2515-2475006	SY	$52.500	2,550.000	0.000	1,666.293	1,666.293	1,666.293	$0.00	$87,480.38
DRIVEWAY, P.C. CONCRETE, 6 IN.										
0570	2515-2475007	SY	$54.000	1,047.000	0.000	586.625	586.625	586.625	$0.00	$31,677.75
DRIVEWAY, P.C. CONCRETE, 7 IN.										
0580	2515-6745600	SY	$10.000	3,212.000	0.000	1,521.100	1,521.100	1,521.100	$0.00	$15,211.00
REMOVAL OF PAVED DRIVEWAY										
0590	2523-0000310	EACH	$1,235.000	6.000	0.000	1.000	1.000	1.000	$0.00	$1,235.00
HANDHOLES AND JUNCTION BOXES										
0600	2524-6765110	EACH	$300.000	72.000	37.000	16.000	53.000	53.000	$11,100.00	$15,900.00
REMOVAL OF TYPE A SIGN										
0610	2524-6765210	EACH	$100.000	21.000	14.000	4.000	18.000	18.000	$1,400.00	$1,800.00
REMOVAL OF TYPE A SIGN ASSEMBLY										
0620	2524-9276010	LF	$35.000	390.000	90.000	200.000	290.000	290.000	$3,150.00	$10,150.00
PERFORATED SQUARE STEEL TUBE POSTS										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0630	2524-9276021	EACH	$100.000	39.000	19.000	10.000	29.000	29.000	$1,900.00	$2,900.00
PERFORATED SQUARE STEEL TUBE POST ANCHOR, BREAK-AWAY SOIL INSTALLATION										
0640	2524-9325001	SF	$35.000	392.500	57.500	272.500	330.000	330.000	$2,012.50	$11,550.00
TYPE A SIGNS, SHEET ALUMINUM										
0650	2525-0000100	LS	$100,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$100,000.00
TRAFFIC SIGNALIZATION										
0660	2527-9263109	STA	$86.000	136.000	0.000	29.279	29.279	29.279	$0.00	$2,517.99
PAINTED PAVEMENT MARKING, WATERBORNE OR SOLVENT-BASED										
0670	2527-9263117	STA	$116.000	168.000	0.000	110.582	110.582	110.582	$0.00	$12,827.51
PAINTED PAVEMENT MARKINGS, DURABLE										
0680	2527-9263137	EACH	$130.000	25.000	0.000	2.000	2.000	2.000	$0.00	$260.00
PAINTED SYMBOLS AND LEGENDS, WATERBORNE OR SOLVENT-BASED										
0690	2527-9263143	EACH	$185.000	25.000	0.000	23.000	23.000	23.000	$0.00	$4,255.00
PAINTED SYMBOLS AND LEGENDS, DURABLE										
0700	2527-9270111	STA	$83.000	168.000	0.000	110.582	110.582	110.582	$0.00	$9,178.31
GROOVES CUT FOR PAVEMENT MARKINGS										
0710	2527-9270120	EACH	$220.000	25.000	0.000	23.000	23.000	23.000	$0.00	$5,060.00
GROOVES CUT FOR SYMBOLS AND LEGENDS										
0720	2528-8445110	LS	$75,000.000	1.000	0.100	0.800	0.900	0.900	$7,500.00	$67,500.00
TRAFFIC CONTROL										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0730	2528-9290050	CDAY	$200.000	60.000	0.000	48.000	48.000	48.000	$0.00	$9,600.00
PORTABLE DYNAMIC MESSAGE SIGN (PDMS)										
0740	2529-5070110	SY	$100.000	51.000	0.000	100.678	100.678	100.678	$0.00	$10,067.80
PATCHES, FULL-DEPTH FINISH, BY AREA										
0750	2533-4980005	LS	$600,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$600,000.00
MOBILIZATION										
0760	2552-0000220	CY	$75.000	975.000	0.000	0.000	0.000	0.000	$0.00	$0.00
REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL										
0770	2599-9999010	LS	$15,000.000	1.000	0.050	0.750	0.800	0.800	$750.00	$12,000.00
('LUMP SUM' ITEM): MAINTENANCE OF SOLID WASTE COLLECTION										
0780	2599-9999010	LS	$1,850.000	1.000	0.000	0.500	0.500	0.500	$0.00	$925.00
('LUMP SUM' ITEM): REMOVE AND REINSTALL ELECTRONIC SPEED SIGN										
0790	2599-9999010	LS	$7,200.000	1.000	0.050	0.750	0.800	0.800	$360.00	$5,760.00
('LUMP SUM' ITEM): SWPPP MANAGEMENT										
0800	2599-9999010	LS	$80,000.000	1.000	0.050	0.750	0.800	0.800	$4,000.00	$64,000.00
('LUMP SUM' ITEM): VIBRATION MONITORING										
0810	2601-2634105	ACRE	$4,110.000	2.630	0.000	1.310	1.310	1.310	$0.00	$5,384.10
MULCHING, BONDED FIBER MATRIX										
0820	2601-2639010	SQ	$65.000	1,150.000	0.000	796.020	796.020	796.020	$0.00	$51,741.30
SODDING										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0830	2601-2643110	MGAL	$75.000	690.000	0.000	49.000	49.000	49.000	$0.00	$3,675.00
WATERING FOR SOD, SPECIAL DITCH CONTROL, OR SLOPE PROTECTION										
0840	2602-0000150	LF	$15.000	300.000	0.000	150.000	150.000	150.000	$0.00	$2,250.00
STABILIZED CONSTRUCTION ENTRANCE, EC-303										
0850	2602-0000309	LF	$3.000	10,000.000	0.000	488.000	488.000	488.000	$0.00	$1,464.00
PERIMETER AND SLOPE SEDIMENT CONTROL DEVICE, 9 IN. DIA.										
0860	2602-0000351	LF	$0.010	10,000.000	0.000	0.000	0.000	0.000	$0.00	$0.00
REMOVAL OF PERIMETER AND SLOPE OR DITCH CHECK SEDIMENT CONTROL DEVICE										
0870	2602-0000500	LF	$10.000	32.000	0.000	32.000	32.000	32.000	$0.00	$320.00
OPEN-THROAT CURB INTAKE SEDIMENT FILTER, EC-602										
0880	2602-0000530	EACH	$95.000	110.000	0.000	61.000	61.000	61.000	$0.00	$5,795.00
GRATE INTAKE SEDIMENT FILTER BAG, EC-604										
0890	2602-0010010	EACH	$600.000	1.000	0.000	9.000	9.000	9.000	$0.00	$5,400.00
MOBILIZATIONS, EROSION CONTROL										
0900	2602-0010020	EACH	$1,200.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
MOBILIZATIONS, EMERGENCY EROSION CONTROL										
8001	2599-9999005	EACH	$14,250.000	1.000	0.000	1.000	1.000	1.000	$0.00	$14,250.00
('EACH' ITEM): INTAKE, SW-506 MOD, CAST-IN-PLACE										
8002	2435-0250610	EACH	$14,410.000	2.000	0.000	1.000	1.000	1.000	$0.00	$14,410.00
INTAKE, SW-506 MOD										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
8009	2599-9999018	SY	$0.300	19,678.000	0.000	15,192.968	15,192.968	15,192.968	$0.00	$4,557.89
('SQUARE YARDS' ITEM): (REINFORCEMENT ADJ)										
8010	2430-0000100	SF	$74.000	144.000	0.000	144.000	144.000	144.000	$0.00	$10,656.00
MODULAR BLOCK RETAIN WALL										
8011	2599-9999005	EACH	$4,325.750	2.000	0.000	2.000	2.000	2.000	$0.00	$8,651.50
('EACH' ITEM): INSTALLATION AND REMOVAL OF TEMPORARY INTAKE										
8013	2599-9999005	EACH	$3,300.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('EACH' ITEM): CONNECT TO EXISTING BOX CULVERT										
8014	2599-9999005	EACH	$3,829.650	1.000	0.000	1.000	1.000	1.000	$0.00	$3,829.65
('EACH' ITEM): MODIFY EXISTING INTAKE										
8015	2599-9999005	EACH	$1,925.000	2.000	0.000	1.000	1.000	1.000	$0.00	$1,925.00
('EACH' ITEM): REMOVE AND REINSTALL PUSHBUTTONS										
8016	2599-9999005	EACH	$8,730.150	1.000	0.000	1.000	1.000	1.000	$0.00	$8,730.15
('EACH' ITEM): 18" NYLOPLAST INTAKE W/ CONNECTION										
8017	2599-9999010	LS	$544.500	1.000	0.000	1.000	1.000	1.000	$0.00	$544.50
('LUMP SUM' ITEM): POTHOLE UTILITIES										
8018	2599-9999010	LS	$1,485.000	1.000	0.000	1.000	1.000	1.000	$0.00	$1,485.00
('LUMP SUM' ITEM): STORM SEWER REMOVAL AND INSTALLATION										
8019	2599-9999010	LS	$6,510.570	1.000	0.000	1.000	1.000	1.000	$0.00	$6,510.57
('LUMP SUM' ITEM): 6" SANITARY SEWER SERVICE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
8020	2599-9999005	EACH	$562.650	13.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('EACH' ITEM): MH CASTING (MECHANICAL)										
8021	2599-9999010	LS	$47,700.800	1.000	0.000	1.000	1.000	1.000	$0.00	$47,700.80
('LUMP SUM' ITEM): Cast In Place SW-406										
8022	2599-9999010	LS	$5,989.500	1.000	0.000	1.000	1.000	1.000	$0.00	$5,989.50
('LUMP SUM' ITEM): Tracer Wire Test Station										
8023	2599-9999010	LS	$6,041.300	1.000	0.000	1.000	1.000	1.000	$0.00	$6,041.30
('LUMP SUM' ITEM): Traffic Signal Footing Adjustment										
8024	2599-9999010	LS	$3,738.900	1.000	1.000	0.000	1.000	1.000	$3,738.90	$3,738.90
('LUMP SUM' ITEM): Sanitary Sewer Service Exploratory Excavation										
8025	2599-9999010	LS	$7,820.900	1.000	1.000	0.000	1.000	1.000	$7,820.90	$7,820.90
('LUMP SUM' ITEM): Sanitary Sewer Service Stub, PVC, 6 IN										
8026	2599-9999010	LS	$40,256.620	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('LUMP SUM' ITEM): Cast in Place Intake 10										
								Section Totals:	$144,139.63	$4,443,402.63
Section: 0002 - STP-U-8477(615)--70-77, Roadway Items - Division 2										
0910	2554-0114004	LF	$65.000	35.000	0.000	31.000	31.000	31.000	$0.00	$2,015.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 4 IN.										
0920	2554-0114006	LF	$60.000	101.000	19.000	184.000	203.000	203.000	$1,140.00	$12,180.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 6 IN.										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0930	2554-0114008	LF	$55.000	558.000	202.000	624.000	826.000	826.000	$11,110.00	$45,430.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 8 IN.										
0940	2554-0114008	LF	$80.000	455.000	0.000	99.000	99.000	99.000	$0.00	$7,920.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 8 IN.: RESTRAINED JOINT										
0950	2554-0114012	LF	$80.000	3,703.000	1,207.000	2,122.000	3,329.000	3,329.000	$96,560.00	$266,320.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.										
0960	2554-0114012	LF	$105.000	631.000	94.000	886.000	980.000	980.000	$9,870.00	$102,900.00
WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.: RESTRAINED JOINT										
0970	2554-0134008	LF	$165.000	100.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER MAIN WITH CASING PIPE, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 8 IN.										
0980	2554-0134012	LF	$240.000	100.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER MAIN WITH CASING PIPE, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.										
0990	2554-0203000	LB	$20.000	6,162.000	1,548.000	6,867.000	8,415.000	8,415.000	$30,960.00	$168,300.00
FITTINGS BY WEIGHT, DUCTILE IRON										
1000	2554-0207008	EACH	$2,700.000	12.000	3.000	10.000	13.000	13.000	$8,100.00	$35,100.00
VALVE, GATE, DIP, 8 IN.										
1010	2554-0207012	EACH	$4,500.000	9.000	2.000	7.000	9.000	9.000	$9,000.00	$40,500.00
VALVE, GATE, DIP, 12 IN.										
1020	2554-0210201	EACH	$8,500.000	15.000	3.000	12.000	15.000	15.000	$25,500.00	$127,500.00
FIRE HYDRANT ASSEMBLY, WM-201										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
1030	2554-0211002	EACH	$1,750.000	6.000	3.000	13.000	16.000	16.000	$5,250.00	$28,000.00
FLUSHING DEVICE (BLOWOFF), 2 IN.										
1040	2599-9999005	EACH	$6,500.000	2.000	0.000	1.000	1.000	1.000	$0.00	$6,500.00
('EACH' ITEM): PREPARE EXCAVATION FOR TAPPING SLEEVE & VALVE										
1050	2599-9999005	EACH	$410.000	51.000	0.000	28.000	28.000	28.000	$0.00	$11,480.00
('EACH' ITEM): TAP FEE, 1-IN, REPLACEMENT TAP FOR WATER SERVICE TRANSFER										
1060	2599-9999005	EACH	$1,725.000	3.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('EACH' ITEM): TAP FEE, 2-IN, REPLACEMENT TAP FOR WATER SERVICE TRANSFER										
1070	2599-9999005	EACH	$3,800.000	11.000	0.000	5.000	5.000	5.000	$0.00	$19,000.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 1-IN, OPPOSITE SIDE										
1080	2599-9999005	EACH	$3,000.000	40.000	0.000	23.000	23.000	23.000	$0.00	$69,000.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 1-IN, SAME SIDE										
1090	2599-9999005	EACH	$5,400.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 2-IN, OPPOSITE SIDE										
1100	2599-9999005	EACH	$3,400.000	2.000	0.000	1.000	1.000	1.000	$0.00	$3,400.00
('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 2-IN, SAME SIDE										
1110	2599-9999005	EACH	$6,100.000	1.000	0.000	2.000	2.000	2.000	$0.00	$12,200.00
('EACH' ITEM): WATER SERVICE TRANSFER, EQUAL TO OR GREATER THAN 3, SAME SIDE										
1120	2599-9999009	LF	$45.000	965.000	0.000	535.000	535.000	535.000	$0.00	$24,075.00
('LINEAR FEET' ITEM): REMOVAL OF EXISTING WATER MAIN IN CONFLICT WITH NEW CONSTRUCTION										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
1130	2599-9999020	TON	$65.000	100.000	0.000	0.000	0.000	0.000	$0.00	$0.00
('TONS' ITEM): FOUNDATION ROCK										
8003	2504-0114018	LF	$572.000	20.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SAN SWR G-MAIN, TRENCHED, PVC, 18"										
8004	2554-0112008	LF	$247.500	8.000	0.000	5.000	5.000	5.000	$0.00	$1,237.50
WATER MAIN, TRENCHED, DIP, 8"										
8005	2554-0112012	LF	$154.000	260.000	0.000	280.000	280.000	280.000	$0.00	$43,120.00
WATER MAIN, TRENCHED, DIP, 12"										
8006	2554-0207006	EACH	$3,509.000	3.000	0.000	3.000	3.000	3.000	$0.00	$10,527.00
VALVE, GATE, DIP, 6"										
8007	2554-0112012	LF	$176.000	83.000	0.000	72.000	72.000	72.000	$0.00	$12,672.00
WATER MAIN, TRENCHED, DIP, 12": (RESTRAINED JOINT)										
8008	2599-9999005	EACH	$1,760.000	8.000	0.000	10.000	10.000	10.000	$0.00	$17,600.00
('EACH' ITEM): 32 LB MAGNESIUM ANODE										
8012	2599-9999005	EACH	$10,859.750	1.000	0.000	1.000	1.000	1.000	$0.00	$10,859.75
('EACH' ITEM): WATER MAIN, CONNECT TO EXISTING MAIN										
								Section Totals:	$197,490.00	$1,077,836.25
Section: 3 - Description										
								Section Totals:	$0.00	$0.00
								Total Payments:	$341,629.63	$5,521,238.88

Time Charges

Time Limit	Original Deadline	Authorized Deadline	Charges This Period	Damages This Period	Days Completed To Date	Days Remaining To Date	Damages To Date
Working Days, Late Start Date - 05/06/2024, Liquidated Damage Rate - 2,500	300.0 Days	300.0 Days	18.0 Days	$0.00	313.5 Days	-13.5 Days	$0.00
						Total Damages:	$0.00

Stockpiles

Stockpile	Fund Package	Current Advancements	Advancements To Date	Current Recoveries	Recoveries To Date
#1 - 2554-0203000 FITTINGS BY WEIGHT, DUCTILE IRON	77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615	$0.00	$12,845.16	$0.00	$12,845.16
#2 - 2554-0207008 VALVE, GATE, DIP, 8 IN.	77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615	$0.00	$5,580.00	$0.00	$5,580.00
#3 - 2554-0114012 WATER MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 12 IN.	77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615	$0.00	$3,430.00	$0.00	$3,430.00
#4 - 2554-0211002 FLUSHING DEVICE (BLOWOFF), 2 IN.	77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615	$0.00	$185.93	$0.00	$185.93
#5 - 2599-9999005 ('EACH' ITEM): WATER SERVICE TRANSFER, COPPER, 1-IN, SAME SIDE	77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615	$0.00	$4,000.00	$0.00	$4,000.00
#6 - 2525-0000100	77-8477-615-CAT-1 77-8477-615-CAT-1 77-8477-615	$0.00	$32,832.46	$0.00	$32,832.46
	Totals:	$0.00	$58,873.55	$0.00	$58,873.55

Stockpile	Fund Package		Current Advancements	Advancements To Date	Current Recoveries	Recoveries To Date
TRAFFIC SIGNALIZATION						
		Totals:	$0.00	$58,873.55	$0.00	$58,873.55

Summary

Current Approved Work:	$341,629.63	**Approved Work To Date:**	$5,521,238.88
Current Stockpile Advancement:	$0.00	**Stockpile Advancement To Date:**	$58,873.55
Current Stockpile Recovery:	$0.00	**Stockpile Recovery To Date:**	$58,873.55
Current Retainage:	$0.00	**Retainage To Date:**	$30,000.00
Current Retainage Released:	$0.00	**Retainage Released To Date:**	$0.00
Current Liquidated Damages:	$0.00	**Liquidated Damages To Date:**	$0.00
Current Adjustment:	$0.00	**Adjustments To Date:**	$0.00
Current Payment:	$341,629.63	**Payments To Date:**	$5,491,238.88
Previous Payment:	$67,295.90	**Previous Payments To Date:**	$5,149,609.25

Funding Details

77-8477-615-CAT-1 77-8477-615-CAT-1 77-8477-615:	$144,139.63	**77-8477-615-CAT-1 77-8477-615-CAT-1 77-8477-615 To Date:**	$4,539,418.88
77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615:	$197,490.00	**77-8477-615-CAT-2 77-8477-615-CAT-2 77-8477-615 To Date:**	$981,820.00
77-8477-615-CAT-3 NON-PARTICIPATING:	$0.00	**77-8477-615-CAT-3 NON-PARTICIPATING To Date:**	$0.00
Current Payment:	$341,629.63	**Payments To Date:**	$5,521,238.88

CONTRACTOR'S CERTIFICATION:

Contractor certifies that to the best of Contractor's knowledge, information and belief, the Work covered by this Payment Application has been completed in accordance with the Contract Documents, that all amounts have been paid by Contractor for Work for which payments were issued and payments received from the City of Windsor Heights, and that the current payment applied herein is now due.

By:_____ Date:_____

ENGINEER'S CERTIFICATION:

In accordance with the Contract Documents, based on on-site observations and the data comprising this Payment Application, the Construction Project Manager certifies to the City of Windsor Heights that to the best of the Construction Project Manager's knowledge, information, and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and Contractor is entitled to payment of Amount Certified.

AMOUNT CERTIFIED: $_____

By:_____ Date:_____

CITY OF WINDSOR HEIGHTS REVIEW / APPROVAL:

By:_____ Date:_____

Doc Express® Document Signing History

Contract: 77-8477-615 Document: payment-20-20260605

This document is in the process of being signed by all required signatories using the Doc Express® service. Following are the signatures that have occurred so far.

Date	Signed By
06/10/2026	Logan Petersen Absolute Concrete Construction Inc. Electronic Signature (Approved by Contractor (Optional))
06/10/2026	Justin Ernst Bolton & Menk, Inc. - Iowa Electronic Signature (Recommended by Engineer)
	(Approved by PIRC (when applicable))

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM:

SUBJECT: Approve 74th Street Reconstruction Project Pay Request 1

GENERAL INFORMATION

ATTACHMENTS

1. LTR-74th Street-Pay App 1
2. Pay App 01_74th_Street_Reconstruction_24X.135938.000-2(1)

BOLTON & MENK
Real People. Real Solutions.

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

June 10, 2026

Mr. Adam Plagge
City Administrator
City of Windsor Heights, Iowa

RE: 74th Street Reconstruction Project
Pay Request 1

Dear Mr. Plagge:

Submitted for your approval is Pay Request 1 for the above-mentioned project. Pay request is for a total payment of $155,172.68. The total payments to date: $155,172.68. Please see enclosure for a full summary of the items completed that are included in this payment.

Bolton & Menk, Inc., recommends the approval of Pay Request 1. Upon approval, please sign 3 copies in the space provided. Return one executed copy of the pay request to our office and one executed copy of the pay request to MPS Engineers, P.C. D/B/A Kinston Services, P.C.. with payment.

Please let me know if you have any questions.

Sincerely,

Bolton & Menk, Inc.

Justin Ernst, PE
Municipal Assistant Practice Leader, Principal

Enclosure

Bolton & Menk is an equal opportunity employer.

City of Windsor Heights - Iowa

Detailed Payment

74th Street Reconstruction - 24X.135938.000

Description	Replacement of pavement, watermain and storm sewer.
Payment Number	1
Pay Period	04/13/2026 to 05/31/2026
Prime Contractor	MPS ENGINEERS, P.C. D/B/A KINGSTON SERVICES, P.C.
Payment Status	Pending
Awarded Project Amount	$2,014,595.00
Authorized Amount	$2,014,595.00

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
Section: 1 - City of Windsor Heights										
0001	0000-999-A	LS	$50,000.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
COMPLETION INCENTIVE NO. 1, LUMP SUM, NO EXCUSE										
0002	0000-999-B	LS	$50,000.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
COMPLETION INCENTIVE NO. 2, LUMP SUM, NO EXCUSE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0003	0000-999-C	EA	$225.000	29.000	5.000	0.000	5.000	5.000	$1,125.00	$1,125.00
SALVAGE AND REINSTALL MAILBOX										
0004	0000-999-D	LF	$6.000	500.000	122.940	0.000	122.940	122.940	$737.64	$737.64
TREE PROTECTION FENCE										
0005	0000-999-E	EA	$250.000	7.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TREE TRUNK PROTECTION										
0006	2010-C	LS	$24,000.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
CLEARING AND GRUBBING										
0007	2010-D-2	CY	$40.000	50.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TOPSOIL, COMPOST AMENDED										
0008	2010-D-3	CY	$50.000	780.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TOPSOIL, OFF-SITE										
0009	2010-E	CY	$12.000	1,305.000	80.000	0.000	80.000	80.000	$960.00	$960.00
EXCAVATION, CLASS 10										
0010	2010-F	CY	$12.000	485.000	0.000	0.000	0.000	0.000	$0.00	$0.00
BELOW GRADE EXCAVATION (CORE OUT)										
0011	2010-G	SY	$2.000	5,820.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBGRADE PREPARATION										
0012	2010-I	SY	$4.000	590.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBGRADE TREATMENT, GEOGRID, TRIANGULAR										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0013	2010-J	SY	$14.000	5,820.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBBASE, MODIFIED, 8 INCHES										
0014	2010-999-A	LS	$15,500.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
UTILITY POTHOLING										
0015	3010-D	CY	$20.000	130.000	0.000	0.000	0.000	0.000	$0.00	$0.00
REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL										
0016	4020-A-1	LF	$85.000	604.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER, TRENCHED, 15 INCH										
0017	4020-A-1	LF	$104.000	66.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER, TRENCHED, 18 INCH										
0018	4020-A-1	LF	$125.000	242.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER, TRENCHED, RCP, 24 INCH										
0019	4020-D	LF	$225.000	137.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM SEWER, TRENCHED, RCP, 48 INCH										
0020	4020-D	LF	$18.000	135.000	0.000	0.000	0.000	0.000	$0.00	$0.00
REMOVAL OF STORM SEWER, 48 INCH										
0021	4040-A	LF	$18.000	2,890.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBDRAIN, PERFORATED, 6 INCH										
0022	4040-C-1	EA	$400.000	10.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBDRAIN CLEANOUT, TYPE A-1, 6 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0023	4040-D-1	EA	$400.000	10.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SUBDRAIN OUTLETS AND CONNECTIONS, CMP, 6 INCH										
0024	4050-A-1	LF	$15.000	700.000	0.000	0.000	0.000	0.000	$0.00	$0.00
MAINLINE CLEANING, 48 INCH										
0025	4050-H-1	EA	$7,500.000	5.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SPOT REPAIRS BY PIPE REPLACEMENT, PVC, 4-6 INCH										
0026	4050-H-1	EA	$7,500.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SPOT REPAIRS BY PIPE REPLACEMENT, PVC, 4-6 INCH (SHORT)										
0027	4050-H-1	EA	$12,500.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SPOT REPAIRS BY PIPE REPLACEMENT, 48 INCH										
0047	6010-A	EA	$13,500.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
STORM MANHOLE, SW-402, 42X66 INCH, CAST IN PLACE										
0048	6010-B	EA	$4,600.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INTAKE, SW-501										
0049	6010-B	EA	$6,500.000	6.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INTAKE, SW-505										
0050	6010-B	EA	$8,800.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INTAKE, SW-505, CAST IN PLACE										
0051	6010-B	EA	$8,000.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INTAKE, SW-506										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0052	6010-B	EA	$8,000.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
INTAKE, SW-509										
0053	6010-E	EA	$2,200.000	4.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SANITARY MANHOLE ADJUSTMENT, MINOR										
0054	6010-F	EA	$5,000.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SANITARY MANHOLE ADJUSTMENT, MAJOR										
0055	6010-H	EA	$500.000	4.000	1.000	0.000	1.000	1.000	$500.00	$500.00
REMOVE INTAKE										
0056	7010-A	SY	$69.000	4,900.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PAVEMENT, PCC, 7 INCH										
0057	7010-N	SY	$2.500	930.000	0.000	0.000	0.000	0.000	$0.00	$0.00
COLD WEATHER PROTECTION										
0058	7010-999-A	LF	$0.600	6,510.000	0.000	0.000	0.000	0.000	$0.00	$0.00
JOINT PREVENTATIVE SEALANT										
0059	7030-A-1	SY	$12.000	540.000	28.800	0.000	28.800	28.800	$345.60	$345.60
REMOVAL OF SIDEWALK										
0060	7030-A-3	SY	$12.000	760.000	204.300	0.000	204.300	204.300	$2,451.60	$2,451.60
REMOVAL OF DRIVEWAY										
0061	7030-E	SY	$47.000	800.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SIDEWALK, PCC, 4 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0062	7030-E	SY	$68.000	30.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SIDEWALK, PCC, 6 INCH										
0063	7030-G	SF	$60.000	36.000	0.000	0.000	0.000	0.000	$0.00	$0.00
DETECTABLE WARNING										
0064	7030-H-1	SY	$65.000	790.000	0.000	0.000	0.000	0.000	$0.00	$0.00
DRIVEWAY, PAVED, PCC, 6 INCH										
0065	7030-H-3	TON	$45.000	160.000	50.010	0.000	50.010	50.010	$2,250.45	$2,250.45
TEMPORARY GRANULAR SURFACING, CLASS A ROAD STONE										
0066	7040-H	SY	$9.000	4,460.000	1,674.500	0.000	1,674.500	1,674.500	$15,070.50	$15,070.50
PAVEMENT REMOVAL										
0067	8030-A	LS	$32,000.000	1.000	0.200	0.000	0.200	0.200	$6,400.00	$6,400.00
TEMPORARY TRAFFIC CONTROL										
0068	8040-A	EA	$250.000	9.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TRAFFIC SIGNS, TYPE A										
0069	8040-D	EA	$225.000	9.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PERFORATED SQUARE STEEL TUBE POSTS										
0070	9010-D	MGAL	$1.000	100.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATERING										
0071	9020-A	SY	$14.000	2,830.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SOD										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0072	9040-A-1	LS	$1,600.000	1.000	1.000	0.000	1.000	1.000	$1,600.00	$1,600.00
SWPPP PREPARATION										
0073	9040-A-2	LS	$6,000.000	1.000	0.100	0.000	0.100	0.100	$600.00	$600.00
SWPPP MANAGEMENT										
0074	9040-D-1	LF	$2.000	2,850.000	80.000	0.000	80.000	80.000	$160.00	$160.00
FILTER SOCK, 9 INCH										
0075	9040-O-1	SY	$16.000	800.000	123.300	0.000	123.300	123.300	$1,972.80	$1,972.80
STABILIZED CONSTRUCTION ENTRANCE										
0076	9040-Q-2	AC	$2,500.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
EROSION CONTROL MULCHING, HYDRO MULCHING										
0077	9040-T-1	EA	$200.000	18.000	2.000	0.000	2.000	2.000	$400.00	$400.00
INLET PROTECTION DEVICE, MAINTENANCE, AND REMOVAL										
0078	9071-A	SF	$54.000	155.000	0.000	0.000	0.000	0.000	$0.00	$0.00
MODULAR BLOCK RETAINING WALL										
0079	11020-A	LS	$206,985.000	1.000	0.250	0.000	0.250	0.250	$51,746.25	$51,746.25
MOBILIZATION										
0080	11030-A	LS	$2,400.000	1.000	0.200	0.000	0.200	0.200	$480.00	$480.00
MAINTENANCE OF POSTAL SERVICE										
0081	11030-B	UNIT	$400.000	28.000	2.000	0.000	2.000	2.000	$800.00	$800.00
MAINTENANCE OF SOLID WASTE COLLECTION										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0082	11040-A	LS	$12,000.000	1.000	0.100	0.000	0.100	0.100	$1,200.00	$1,200.00
TEMPORARY PEDESTRIAN RESIDENTIAL ACCESS										
0083	11050-A	LS	$500.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
CONCRETE WASHOUT										
A1	4050-999-A	LF	$355.000	100.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SPOT INVERT REPAIRS										
								Section Totals:	$88,799.84	$88,799.84
Section: 2 - Des Moines Water Works										
0028	SPEC. PROV.	TON	$48.000	50.000	0.000	0.000	0.000	0.000	$0.00	$0.00
FOUNDATION ROCK										
0029	SPEC. PROV.	CY	$200.000	20.000	0.000	0.000	0.000	0.000	$0.00	$0.00
UTILITY EMBEDMENT MATERIAL										
0030	SPEC. PROV.	LF	$85.000	1,310.000	324.800	0.000	324.800	324.800	$27,608.00	$27,608.00
WATER MAIN, TRENCHED, PVC C900 (DR 18), 8 INCH WITH TRACER WIRE										
0031	SPEC. PROV.	LF	$192.000	210.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER MAIN, TRENCHLESS, PVC C900 (DR 18), 8 INCH WITH TRACER WIRE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0032	SPEC. PROV.	LB	$24.000	1,985.000	546.000	0.000	546.000	546.000	$13,104.00	$13,104.00
FITTING BY WEIGHT, DUCTILE IRON										
0033	SPEC. PROV.	EA	$3,200.000	14.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER SERVICE TRANSFER, COPPER, 1 INCH, SAME SIDE										
0034	SPEC. PROV.	EA	$5,000.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER SERVICE TRANSFER, COPPER, 1 INCH, SAME SIDE (SPECIAL)										
0035	SPEC. PROV.	EA	$4,400.000	13.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER SERVICE TRANSFER, COPPER, 1 INCH, OPPOSITE SIDE										
0036	SPEC. PROV.	EA	$6,000.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER SERVICE TRANSFER, COPPER, 1 INCH, OPPOSITE SIDE (SPECIAL)										
0037	SPEC. PROV.	LF	$30.000	151.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WATER MAIN REMOVAL										
0038	SPEC. PROV.	EA	$4,500.000	4.000	1.000	0.000	1.000	1.000	$4,500.00	$4,500.00
VALVE, GATE, 8 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0039	SPEC. PROV.	EA	$8,000.000	5.000	2.000	0.000	2.000	2.000	$16,000.00	$16,000.00
FIRE HYDRANT ASSEMBLY										
0040	SPEC. PROV.	EA	$1,000.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
FLUSHING DEVICE (BLOW OFF), 4 INCH										
0041	SPEC. PROV.	EA	$800.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
VALVE BOX ADJUSTMENT, MINOR										
0042	SPEC. PROV.	EA	$1,200.000	3.000	0.000	0.000	0.000	0.000	$0.00	$0.00
FIRE HYDRANT ASSEMBLY REMOVAL										
0043	SPEC. PROV.	EA	$800.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
VALVE REMOVAL										
0044	SPEC. PROV.	EA	$460.000	32.000	1.000	0.000	1.000	1.000	$460.00	$460.00
TAP FEE, 1", REPLACE TAP FOR WATER SERVICE										
0045	SPEC. PROV.	EA	$7,000.000	2.000	1.000	0.000	1.000	1.000	$7,000.00	$7,000.00
PREPARE EXCAVATION FOR TAPPING SLEEVE AND VALVE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0046	SPEC. PROV.	EA	$5,000.000	3.000	0.500	0.000	0.500	0.500	$2,500.00	$2,500.00
PREPARE EXCAVATION FOR 1-INCH CHLORINATION TAP WITH ABANDONMENT										
								Section Totals:	$71,172.00	$71,172.00
								Total Payments:	$159,971.84	$159,971.84

Time Charges

Time Limit	Original Deadline	Authorized Deadline	Charges This Period	Damages This Period	Days Completed To Date	Days Remaining To Date	Damages To Date
Liquidated Damages - $750 per day	140.0 Days	140.0 Days	10.0 Days	$0.00	10.0 Days	130.0 Days	$0.00
						Total Damages:	$0.00

Summary

Current Approved Work:	$159,971.84	**Approved Work To Date:**	$159,971.84
Current Stockpile Advancement:	$0.00	**Stockpile Advancement To Date:**	$0.00
Current Stockpile Recovery:	$0.00	**Stockpile Recovery To Date:**	$0.00
Current Retainage:	$4,799.16	**Retainage To Date:**	$4,799.16
Current Retainage Released:	$0.00	**Retainage Released To Date:**	$0.00
Current Liquidated Damages:	$0.00	**Liquidated Damages To Date:**	$0.00
Current Adjustment:	$0.00	**Adjustments To Date:**	$0.00
Current Payment:	$155,172.68	**Payments To Date:**	$155,172.68
Previous Payment:	$0.00	**Previous Payments To Date:**	$0.00

SIGNATURE LINE FOR PAYMENT REPORTS

ENGINEER'S CERTIFICATION:

In accordance with the Contract Documents, based on on-site observations and the data comprising this Payment Application, the Construction Project Manager certifies to the City of Windsor Heights that to the best of the Construction Project Manager's knowledge, information, and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and Contractor is entitled to payment of Amount Certified.

AMOUNT CERTIFIED: $ 155,172.68

By: _____ Date: 6.10.2026

CONTRACTOR'S CERTIFICATION:

Contractor certifies that to the best of Contractor's knowledge, information and belief, the Work covered by this Payment Application has been completed in accordance with the Contract Documents, that all amounts have been paid by Contractor for Work for which payments were issued and payments received from the City of Windsor Heights, and that the current payment applied herein is now due.

By: Umesh Shetye Digitally signed by Umesh Shetye Date: 2026.06.09 18:59:26 -05'00' Date: 06/09/2026

CITY OF WINDSOR HEIGHTS REVIEW / APPROVAL:

By: _____ Date: _____

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM:

SUBJECT: Approve Walnut Creek Water Access Project Pay Request 4

GENERAL INFORMATION

ATTACHMENTS

1. Staff Report-1
2. Pay Application_004_Walnut Creek Water Access-1
3. LTR-Creek Access-Pay App 4-1

Staff Report

To: Mayor and City Council
From: Justin Ernst, City Engineer
Date: June 11, 2026
Subject: Walnut Creek Water Access Pay Application 4

GENERAL INFORMATION

See included letter and pay application.

City of Windsor Heights - Iowa

Detailed Payment

Walnut Creek Water Access

Description	Water access on Walnut Creek, just west of Colby Park in the City of Windsor Heights
Payment Number	4
Pay Period	05/01/2026 to 05/31/2026
Prime Contractor	RW EXCAVATING SOLUTIONS, LC
Payment Status	Pending
Awarded Project Amount	$207,539.50
Authorized Amount	$201,253.76

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
Section: 1 - Description										
0001	0000-999-BE	EA	$700.000	5.000	5.000	0.000	5.000	5.000	$3,500.00	$3,500.00
LIMESTONE STONE BLOCK BENCH										
0002	0000-999-BI	TON	$850.000	0.000	0.000	0.000	0.000	0.000	$0.00	$0.00
LIMESTONE RETAINING WALL										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0003	0000-999-A	LS	$3,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$3,000.00
DEWATERING										
0004	2010-C	LS	$3,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$3,000.00
CLEARING AND GRUBBING										
0005	2010-D-1	CY	$10.000	338.000	169.000	169.000	338.000	338.000	$1,690.00	$3,380.00
TOPSOIL, ON-SITE										
0006	2010-E	CY	$20.000	585.000	0.000	669.000	669.000	669.000	$0.00	$13,380.00
EXCAVATION, CLASS 10										
0007	4020-A-1	LF	$125.000	20.000	0.000	8.000	8.000	8.000	$0.00	$1,000.00
STORM SEWER, TRENCHED, RCP, 30 INCH										
0008	4020-A-1	LF	$300.000	16.000	0.000	8.000	8.000	8.000	$0.00	$2,400.00
STORM SEWER, TRENCHED, RACP, 51X31 INCH										
0009	4020-D	LF	$35.000	32.000	0.000	30.000	30.000	30.000	$0.00	$1,050.00
REMOVAL OF STORM SEWER, RCP										
0010	4030-B	EA	$1,500.000	1.000	0.000	1.000	1.000	1.000	$0.00	$1,500.00
PIPE APRON, RCP, 30 INCH										
0011	4030-B	EA	$3,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$3,000.00
PIPE APRON, RCAP, 51X31 INCH										
0012	4030-C	EA	$1,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$1,000.00
FOOTING FOR CONCRETE PIPE APRON, RCP, 30 INCH										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0013	4030-C	EA	$1,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$1,000.00
FOOTING FOR CONCRETE PIPE APRON, RCAP, 51X31 INCH										
0014	4030-D	EA	$1,300.000	1.000	0.000	1.000	1.000	1.000	$0.00	$1,300.00
PIPE APRON GUARD, 30 INCH										
0015	4030-D	EA	$2,500.000	1.000	0.000	1.000	1.000	1.000	$0.00	$2,500.00
PIPE APRON GUARD, 51X31 INCH										
0016	7030-A-2	SY	$25.000	75.000	0.000	65.900	65.900	65.900	$0.00	$1,647.50
REMOVAL OF SHARED USE PATH										
0017	7030-C	SY	$80.000	75.000	0.000	65.900	65.900	65.900	$0.00	$5,272.00
SHARED USE PATH, PCC, 6 INCH										
0018	7030-E	SY	$70.000	260.000	0.000	263.300	263.300	263.300	$0.00	$18,431.00
SIDEWALK, PCC, 5 INCH										
0019	8030-A	LS	$3,500.000	1.000	0.000	0.600	0.600	0.600	$0.00	$2,100.00
TEMPORARY TRAFFIC CONTROL										
0020	8040-A	EA	$300.000	2.000	0.000	0.000	0.000	0.000	$0.00	$0.00
TRAFFIC SIGNS										
0021	9010-B	AC	$10,000.000	0.060	0.060	0.000	0.060	0.060	$600.00	$600.00
HYDRAULIC SEEDING, SEEDING, FERTILIZING, AND MULCHING, WETLAND MIX										
0022	9010-B	AC	$10,000.000	0.250	0.250	0.000	0.250	0.250	$2,500.00	$2,500.00
HYDRAULIC SEEDING, SEEDING, FERTILIZING, AND MULCHING, NATIVE MESIC PRAIRIE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0023	9010-E	LS	$500.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
WARRANTY										
0024	9020-A	SY	$9.500	580.000	0.000	0.000	0.000	0.000	$0.00	$0.00
SOD										
0025	9030-B	EA	$85.000	0.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PLANTS WITH WARRANTY, DECIDUOUS SHRUBS, #5 CONTAINER										
0026	9030-B	EA	$500.000	0.000	0.000	0.000	0.000	0.000	$0.00	$0.00
PLANTS WITH WARRANTY, DECIDUOUS TREE, 2" CAL.										
0027	9040-D-1	LF	$37.000	235.000	0.000	235.000	235.000	235.000	$0.00	$8,695.00
FLOATING SILT CURTAIN										
0028	9040-D-1	LF	$2.000	1,006.000	0.000	925.000	925.000	925.000	$0.00	$1,850.00
FILTER SOCK, 6 INCH										
0029	9040-E	SY	$2.500	460.000	460.000	0.000	460.000	460.000	$1,150.00	$1,150.00
TEMPORARY RECP, 2.D										
0030	9040-J	TON	$75.000	130.000	0.000	328.140	328.140	328.140	$0.00	$24,610.50
RIP RAP, CLASS E										
0031	9040-N-1	LF	$2.500	205.000	0.000	103.500	103.500	103.500	$0.00	$258.75
SILT FENCE OR SILT FENCE DITCH CHECK										
0032	9040-O-1	LS	$3,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$3,000.00
STABILIZED CONSTRUCTION ENTRANCE										

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
0033	9040-Q-2	AC	$5,000.000	0.500	0.500	0.000	0.500	0.500	$2,500.00	$2,500.00
EROSION CONTROL MULCHING, HYDRO MULCHING, BFM										
0034	9060-F	LF	$3.000	1,210.000	0.000	379.000	379.000	379.000	$0.00	$1,137.00
TEMPORARY FENCE, ORANGE PLASTIC, 48 INCH										
0035	11010-A	LS	$4,500.000	1.000	0.000	0.000	0.000	0.000	$0.00	$0.00
CONSTRUCTION SURVEY										
0036	11020-A	LS	$18,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$18,000.00
MOBILIZATION										
0037	11050-A	LS	$2,000.000	1.000	0.000	1.000	1.000	1.000	$0.00	$2,000.00
CONCRETE WASHOUT										
8010	2599-9999010	LS	$39,500.000	1.000	0.000	1.000	1.000	1.000	$0.00	$39,500.00
('LUMP SUM' ITEM): LIMESTONE RETAINING WALL (LUMP SUM)										
8020	2599-9999020	TON	$62.000	17.730	0.000	0.000	0.000	0.000	$0.00	$0.00
('TONS' ITEM): GRANULAR STABILIZATION, 3 INCH (TON)										
8030	2599-9999010	LS	$6,400.000	1.000	0.000	1.000	1.000	1.000	$0.00	$6,400.00
('LUMP SUM' ITEM): Sign Footing (Lump Sum)										
8040	2599-9999010	LS	$1,445.000	1.000	0.000	1.000	1.000	1.000	$0.00	$1,445.00
('LUMP SUM' ITEM): Additional Limestone Retaining Wall (Lump Sum)										
8050	2599-9999005	EACH	$75.000	193.000	193.000	0.000	193.000	193.000	$14,475.00	$14,475.00
('EACH' ITEM): Plants with Warranty, Deciduous Shrubs, #1 Container										
								Section Totals:	$26,415.00	$196,581.75

Line Number	Item ID	Unit	Unit Price	Authorized Quantity	Current Paid Quantity	Previous Paid Quantity	Total Quantity Paid To Date	Total Quantity Placed To Date	Current Payment Amount	Total Amount Paid To Date
								Total Payments:	$26,415.00	$196,581.75

Time Charges

Time Limit	Original Deadline	Authorized Deadline	Charges This Period	Damages This Period	Days Completed To Date	Days Remaining To Date	Damages To Date
Final Completion - Liquidated damages $500 per day	10/30/2026	10/30/2026	N/A	$0.00	N/A	152.0 Days	$0.00
Substantial Completion - Liquidated damages $500 per day	06/30/2026	06/30/2026	N/A	$0.00	N/A	30.0 Days	$0.00
						Total Damages:	$0.00

Summary

Current Approved Work:	$26,415.00	**Approved Work To Date:**	$196,581.75
Current Stockpile Advancement:	$0.00	**Stockpile Advancement To Date:**	$0.00
Current Stockpile Recovery:	$0.00	**Stockpile Recovery To Date:**	$0.00
Current Retainage:	$792.45	**Retainage To Date:**	$5,897.45
Current Retainage Released:	$0.00	**Retainage Released To Date:**	$0.00
Current Liquidated Damages:	$0.00	**Liquidated Damages To Date:**	$0.00
Current Adjustment:	$0.00	**Adjustments To Date:**	$0.00
Current Payment:	$25,622.55	**Payments To Date:**	$190,684.30
Previous Payment:	$35,449.14	**Previous Payments To Date:**	$165,061.75

SIGNATURE LINE FOR PAYMENT REPORTS

ENGINEER'S CERTIFICATION:

In accordance with the Contract Documents, based on on-site observations and the data comprising this Payment Application, the Construction Project Manager certifies to the City of Windsor Heights that to the best of the Construction Project Manager's knowledge, information, and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and Contractor is entitled to payment of Amount Certified.

AMOUNT CERTIFIED: $ 25,622.55

By:_____ Date:_____

CONTRACTOR'S CERTIFICATION:

Contractor certifies that to the best of Contractor's knowledge, information and belief, the Work covered by this Payment Application has been completed in accordance with the Contract Documents, that all amounts have been paid by Contractor for Work for which payments were issued and payments received from the City of Windsor Heights, and that the current payment applied herein is now due.

By:_____ Date:_____

CITY OF WINDSOR HEIGHTS REVIEW / APPROVAL:

By:_____ Date:_____

BOLTON & MENK
Real People. Real Solutions.

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

June 11, 2026

Mr. Adam Plagge
City Administrator
City of Windsor Heights, Iowa

RE: Walnut Creek Water Access
Pay Request 4

Dear Mr. Plagge:

Submitted for your approval is Pay Request 4 for the above-mentioned project. Pay request is for a total payment of $25,622.55. The total payments to date: $190,684.30. Please see enclosure for a full summary of the items completed that are included in this payment.

Bolton & Menk, Inc., recommends the approval of Pay Request 4. Upon approval, please sign 3 copies in the space provided. Return one executed copy of the pay request to our office and one executed copy of the pay request to RW Excavating with payment.

Please let me know if you have any questions.

Sincerely,

Bolton & Menk, Inc.

Nate Weitl, PLA
Landscape Architect Project Manager

Enclosure

Bolton & Menk is an equal opportunity employer.

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Nate Leuthold, Deputy City Clerk

SUBJECT: Approve Resolution No. 2026-39 - A Resolution Waiving CEC Fees for a Memorial Service for Former Windsor Heights Mayor Dave Burgess

GENERAL INFORMATION

The family of former Windsor Heights mayor Dave Burgess intends to hold a memorial service for Dave, who passed on June 8th in Des Moines. The memorial is intended for family and close friends.

The event is scheduled from 4-8 PM on Monday, June 15th, 2026, including time for setup and tear-down. They have requested the use of the full space in the CEC for this event.

The resident rate for the full space in the CEC is $147 per hour on Mondays, for a total of $588.00. They have committed to returning the space to the state in which it was found (no cleaning fees required). They are requesting that all rental fees be waived.

ATTACHMENTS

1. Resolution No. 2026-39 Waiving CEC Fees for a Memorial Service for Former Windsor Heights Mayor Dave Burgess June 15th 2026

RESOLUTION NO. 2026-39

A RESOLUTION WAIVING CEC FEES FOR A MEMORIAL SERVICE FOR FORMER WINDSOR HEIGHTS MAYOR DAVE BURGESS

WHEREAS, the family of former Windsor Heights mayor Dave Burgess will be hosting a memorial service for Dave; and

WHEREAS, the family will be using the Windsor Heights Community Event Center for this event; and

WHEREAS, the family is requesting that the City waive all fees for this event.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDSOR HEIGHTS, IOWA:

That rental fees associated with the rental of the Windsor Heights Community Event Center by family of Dave Burgess on June 15th, 2026, be waived.

Passed and approved this 15th day of June, 2026.

_____
Mike Jones, Mayor

_____
Adam Strait, City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Nate Leuthold, Deputy City Clerk

SUBJECT: Approve Resolution No. 2026-40 - A Resolution Waiving CEC Fees for Poetry Palooza, A Committee of the Iowa Poetry Association

GENERAL INFORMATION

Poetry Palooza is a committee of the statewide Iowa Poetry Association. The Iowa Poetry Association promotes interest in and appreciation of poetry through opportunities for education, publication, writing, performance, and contests. They aim to serve Iowans of all ages, incomes, identities, and experience levels. They intend to host a "Poetry and Pie" event that is free to the public. They have requested the use of the CEC for this event on August 6th.

The event is scheduled from 5:30 PM to 6:15 PM on August 6th, 2026. The Association is requesting the use of the space from 3:30 to 7:30 PM in order to have ample time for setup and tear-down. They have requested the use of the full space in the CEC for this event.

The non-profit rate for the full space in the CEC is $176 per hour on Thursdays, for a total of $704.00. They have committed to returning the space to the state in which it was found (no cleaning fees required). They are requesting that all rental fees be waived.

ATTACHMENTS

1. Resolution No. 2026-40 Waiving CEC Fees for the Iowa Poetry Association's Poetry Palooza August 6th 2026
2. Iowa Poetry Association Poetry Palooza Waiver Letter

RESOLUTION NO. 2026-40

A RESOLUTION WAIVING CEC FEES FOR POETRY PALOOZA, A COMMITTEE OF THE IOWA POETRY ASSOCIATION

WHEREAS, Poetry Palooza, a committee of the Iowa Poetry Association, will be hosting a Poetry and Pies event on August 6th for the general public; and

WHEREAS, the organization will be using the Windsor Heights Community Event Center for this event; and

WHEREAS, the organization is requesting that the City waive all fees for this event.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDSOR HEIGHTS, IOWA:

That rental fees associated with the rental of the Windsor Heights Community Event Center by the Iowa Poetry Association DBA Poetry Palooza on August 6th, 2026, be waived.

Passed and approved this 15th day of June, 2026.

_____
Mike Jones, Mayor

_____
Adam Strait, City Clerk

Greetings Windsor Heights Council and Staff:

Poetry Palooza is a committee of the statewide 501c3 non-profit Iowa Poetry Association. As a group of hard-working volunteers, IPA would like to request a waiver for our fifth annual Poetry & Pie event, scheduled for August 6, 2026, at your Windsor Heights Community Center.

We will start set-up at 3:30 and clean up immediately after our event concludes at 6:15 (ish) p.m. At 5, we will welcome anyone who wants to participate to come to this free-to-the-public event. We will serve pie at no charge, followed by a few short poetry performances and conversation featuring gifted local poets. The event is intended to amplify poetry's many benefits including personal reflection and community building. Our audience has been growing steadily for this event - beginning with 50, approaching 100 last year and we would anticipate roughly that many (or more) this year. We are excited to bring this well-received "pop-up poetry" event to Windsor Heights.

This is one of roughly six events we hold annually, including our most significant program: Poetry Palooza! - where we feature performances and workshops from star-powered invited poets and the annual IPA Poetry slam finals.

Thank you for considering our waiver request, and please "Come for the free pie and stay for the poetry!" on August 6 at your community center.

Best regards,

Pat Boddy

Co-chair Poetry Palooza

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Nate Leuthold, Deputy City Clerk

SUBJECT: Approve Resolution No. 2026-41 - A Resolution Waiving CEC Fees for the Youth St. Vincent De Paul Conference Associated with St. Theresa Catholic School

GENERAL INFORMATION

Andrew Gross, a mentor for the Youth St. Vincent de Paul Conference intends to host a small grill-out event at Colby Park again this year. The event is intended to welcome high school graduates from St. Theresa's into the Youth St. Vincent de Paul conference, a group that does volunteer work in the metro.

The event is scheduled from 6:00 PM to 7:00 PM on Thursday, June 25th, 2026. He is requesting the use of the space from 5:30 to 7:30 PM to have ample time for setup and tear-down. He has requested the use of the 1/3 space in the CEC for this event, though the event will likely be held largely outside. He is mainly interested in having a space if it rains, as well as a place to cook.

The non-profit rate for the 1/3 space in the CEC is $112 per hour on Thursdays, for a total of $224.00. He has committed to returning the space to the state in which it was found (no cleaning fees required). He is requesting that all rental fees be waived.

ATTACHMENTS

1. Resolution No. 2026-41 Waiving CEC Fees for the Youth St. Vincent de Paul Conference June 25th 2026
2. St Vincent de Paul Request Letter

RESOLUTION NO. 2026-41

A RESOLUTION WAIVING CEC FEES FOR THE YOUTH ST. VINCENT DE PAUL CONFERENCE ASSOCIATED WITH ST. THERESA CATHOLIC SCHOOL

WHEREAS, a local Chapter of St. The Youth St. Vincent de Paul Conference will be hosting a grill out event on June 25th for the participating youth; and

WHEREAS, the organization will be using the Windsor Heights Community Event Center for this event; and

WHEREAS, the organization is requesting that the City waive all fees for this event.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDSOR HEIGHTS, IOWA:

That rental fees associated with the rental of the Windsor Heights Community Event Center by Youth St. Vincent De Paul Conference on June 25th, 2026, be waived.

Passed and approved this 15th day of June, 2026.

_____
Mike Jones, Mayor

_____
Adam Strait, City Clerk

Hey Nate and Windsor Heights City Council members,

I am requesting free use of the small space in the Colby Park shelter on Thursday, June 25. If the door could be open from 5:30 to 7:30 PM that day, it would be greatly appreciated

Thanks again for your generosity of doing that for us last year. I am mentor for a high school youth conference with St. Vincent de Paul. All students are graduates of St. Theresa's Catholic school and most live in the Windsor Heights area.

Sincerely appreciate your consideration this year as well. Please contact me if you have any questions. I can be reached at 515–4 80–3583.

Blessings,

Andrew Gross

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Rachelle Swisher, Finance Director

SUBJECT: Approve Resolution No. 2026-42 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Urban Renewal Administration and Professional Support Program)

GENERAL INFORMATION

The resolution authorizes internal advances from the General Fund to cover eligible administrative and professional support costs for the Urban Renewal Area. This includes legal expenses, financial advisor expenses and a portion of Administration and Finance Director wages.

- FY 2026 Advance: Up to $125,000, already certified, reaffirmed by this resolution.
- FY 2027 Advance: Up to $125,000, to be certified to the Polk County Auditor by December 1, 2026.

ATTACHMENTS

1. Resolution No. 2026-42 Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Urban Renewal Administration and Professional Sup

RESOLUTION NO 2026-42

Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Urban Renewal Administration and Professional Support Program)

WHEREAS, the City of Windsor Heights, Iowa (the "City"), has previously established the Windsor Heights Consolidated Urban Renewal Area (the "Urban Renewal Area") and has established the Windsor Heights Consolidated Urban Renewal Area Tax Increment Revenue Fund (the "Tax Increment Fund") in connection therewith; and

WHEREAS, the City has authorized the Urban Renewal Administration and Professional Support Program (the "Admin Support Program") as an urban renewal project in the Urban Renewal Area; and

WHEREAS, certain costs (the "Program Costs") have and will be incurred in connection with the carrying out of the Program; and

WHEREAS, in order to cover a portion of the Program Costs and to make such Program Costs eligible to be recouped from incremental property tax revenues, it is necessary to facilitate an internal advance of funds;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Windsor Heights, Iowa, as follows:

Section 1. It is hereby directed that an amount not in excess of $125,000 (the "FY 2026 Advance") be advanced from the General Fund in order to fund a portion of the costs of the Admin Support Program for the City's 2025-2026 fiscal year. The FY 2026 Advance shall be repaid to the General Fund, without interest thereon, out of incremental property tax revenues received with respect to the Urban Renewal Area.

It is intended that the FY 2026 Advance shall be repaid to the General Fund in one or more installments by June 1, 2028, provided, however, that repayment of the FY 2026 Advance is subject to the determination of the City Council that there are incremental property tax revenues available for such purpose which have been allocated to or accrued in the Tax Increment Fund relative to the FY 2026 Advance, and the City Council reserves the right to appropriate funds to the repayment of the FY 2026 Advance, or to withhold such appropriation at its discretion.

Section 2. It is hereby directed that an amount not in excess of $125,000 (the "FY 2027 Advance") be advanced from the General Fund in order to fund a portion of the costs of the Admin Support Program for the City's 2026-2027 fiscal year. The FY 2027 Advance shall be repaid to the General Fund, without interest thereon, out of incremental property tax revenues received with respect to the Urban Renewal Area.

It is intended that the FY 2027 Advance shall be repaid to the General Fund in one or more installments by June 1, 2028, provided, however, that repayment of the FY 2027 Advance is subject to the determination of the City Council that there are incremental property tax revenues available for such purpose which have been allocated to or accrued in the Tax Increment Fund relative to the FY 2027 Advance, and the City Council reserves the right to appropriate funds to the repayment of the FY 2027 Advance, or to withhold such appropriation at its discretion.

Section 3. The City Council hereby ratifies and confirms the FY 2026 Advance previously certified to the Polk County Auditor pursuant to Iowa Code Section 403.19. The FY 2026 Advance shall remain outstanding according to its original certification, and this Resolution authorizes no duplicate or supplemental certification thereof.

Section 4. Pursuant to Section 403.19 of the Code of Iowa, the City Clerk is hereby directed to certify, no later than December 1, 2026, the original amount of the FY 2027 Advance.

Section 5. A copy of this Resolution shall be filed in the office of the County Auditor of Polk County, Iowa, to evidence the FY 2026 Advance and the FY 2027 Advance.

Section 6. All resolutions or parts thereof in conflict herewith, are hereby repealed, to the extent of such conflict.

PASSED AND APPROVED on this day of June 15, 2026.

_____
Mayor

Attest:

_____
City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Rachelle Swisher, Finance Director

SUBJECT: Approve Resolution No. 2026-43 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Property Acquisition, Demolition and Site Preparation Project-1122 65th Street)

GENERAL INFORMATION

This resolution authorizes an internal advance of up to $150,000 from the General Fund to pay costs for the acquisition, demolition, and site preparation of 1122 65th Street being purchased to complete the Spring 2027 65th St. stormsewer project. This property purchase is expected to close in July 2026. The advance will be repaid from future tax increment revenues, without interest, by June 1, 2028, subject to available funds and annual Council appropriation.

ATTACHMENTS

1. Resolution No. 2026-43 Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Property Acquisition, Demolition and Site Prepara

RESOLUTION NO 2026-43

Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Property Acquisition, Demolition and Site Preparation Project-1122 65th Street)

WHEREAS, the City of Windsor Heights, Iowa (the "City"), has previously established the Windsor Heights Consolidated Urban Renewal Area (the "Urban Renewal Area") and has established the Windsor Heights Consolidated Urban Renewal Area Tax Increment Revenue Fund (the "Tax Increment Fund") in connection therewith; and

WHEREAS, the City has authorized the Property Acquisition, Demolition and Site Preparation Project (the "Project") as an urban renewal project in the Urban Renewal Area, including the acquisition of certain real property situated at 1122 65th Street and the demolition of an existing house thereon; and

WHEREAS, certain costs (the "Project Costs") have been and will be incurred in connection with the carrying out of the Project; and

WHEREAS, in order to cover a portion of the Project Costs and to make such Project Costs eligible to be recouped from incremental property tax revenues, it is necessary to facilitate an internal advance of funds;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Windsor Heights, Iowa, as follows:

Section 1. It is hereby directed that an amount not in excess of $150,000 (the "Advance") be advanced from the General Fund in order to fund a portion of the costs of the Project. The Advance shall be repaid to the General Fund, without interest thereon, out of incremental property tax revenues received with respect to the Urban Renewal Area.

It is intended that the Advance shall be repaid to the General Fund in one or more annual installments by June 1, 2028, provided, however, that repayment of the Advance is subject to the determination of the City Council that there are incremental property tax revenues available for such purpose which have been allocated to or accrued in the Tax Increment Fund relative to the Advance, and the City Council reserves the right to appropriate funds to the repayment of the Advance, or to withhold such appropriation at its discretion.

Section 2. Pursuant to Section 403.19 of the Code of Iowa, the City Clerk is hereby directed to certify, no later than December 1, 2026, the original amount of the Advance. A copy of this Resolution shall be filed in the office of the County Auditor of Polk County, Iowa to evidence the Advance.

Section 3. All resolutions or parts thereof in conflict herewith, are hereby repealed, to the extent of such conflict.

PASSED AND APPROVED this June 15, 2026.

_____
Mayor

Attest:

_____
City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Rachelle Swisher, Finance Director

SUBJECT: Approve Resolution No. 2026-44 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Colby Park Improvements Project)

GENERAL INFORMATION

This resolution authorizes an internal advance of up to $82,000 from the General Fund to cover eligible construction costs for the Colby Park Improvements Project – ICON Water Trail. The ICON MidAmerican grant is paying the other $125,000 in construction costs. The advance will be repaid from future TIF revenues by June 1, 2028, subject to availability.

ATTACHMENTS

1. Resolution No. 2026-44 Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Colby Park Improvements Project)

RESOLUTION NO 2026-44

Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (Colby Park Improvements Project)

WHEREAS, the City of Windsor Heights, Iowa (the "City"), has previously established the Windsor Heights Consolidated Urban Renewal Area (the "Urban Renewal Area") and has established the Windsor Heights Consolidated Urban Renewal Area Tax Increment Revenue Fund (the "Tax Increment Fund") in connection therewith; and

WHEREAS, the City has authorized the Colby Park Improvements Project (the "Project") as an urban renewal project in the Urban Renewal Area; and

WHEREAS, certain costs (the "Project Costs") have been and will be incurred in connection with the carrying out of the Project; and

WHEREAS, in order to cover a portion of the Project Costs and to make such Project Costs eligible to be recouped from incremental property tax revenues, it is necessary to facilitate an internal advance of funds;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Windsor Heights, Iowa, as follows:

Section 1. It is hereby directed that an amount not in excess of $82,000 (the "Advance") be advanced from the General Fund in order to fund a portion of the costs of the Project. The Advance shall be repaid to the General Fund, without interest thereon, out of incremental property tax revenues received with respect to the Urban Renewal Area.

It is intended that the Advance shall be repaid to the General Fund in one or more annual installments by June 1, 2028, provided, however, that repayment of the Advance is subject to the determination of the City Council that there are incremental property tax revenues available for such purpose which have been allocated to or accrued in the Tax Increment Fund relative to the Advance, and the City Council reserves the right to appropriate funds to the repayment of the Advance, or to withhold such appropriation at its discretion.

Section 3. The City Council hereby ratifies and confirms the Advance previously certified to the Polk County Auditor pursuant to Iowa Code Section 403.19. The Advance shall remain outstanding according to its original certification, and this Resolution authorizes no duplicate or supplemental certification thereof.

Section 4. A copy of this Resolution shall be filed in the office of the County Auditor of Polk County, Iowa, to evidence of the Advance.

PASSED AND APPROVED this June 15, 2026.

_____

Mayor

Attest:

_____

City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Rachelle Swisher, Finance Director

SUBJECT: Approve Resolution No. 2026-46 - A Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (University Avenue Corridor Property Acquisition, Demolition and Site Preparation)

GENERAL INFORMATION

The resolution authorizes an internal advance of up to $177,520 from the Economic Development Fund to cover eligible costs for the University Avenue Corridor property acquisition, demolition, and site preparation. This is for the purchase of 1151 65th St., the duplex currently leased to Nancy's Place and intended for eventual demolition and redevelopment of the greater area. The advance will be repaid from future TIF revenues, without interest, by June 1, 2028, subject to availability.

ATTACHMENTS

1. Resolution No. 2026-46 Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (University Avenue Corridor Property Acquisition,

RESOLUTION NO 2026-46

Resolution Authorizing Internal Advance for Funding of Urban Renewal Project (University Avenue Corridor Property Acquisition, Demolition and Site Preparation)

WHEREAS, the City of Windsor Heights, Iowa (the "City"), has previously established the Windsor Heights Consolidated Urban Renewal Area (the "Urban Renewal Area") and has established the Windsor Heights Consolidated Urban Renewal Area Tax Increment Revenue Fund (the "Tax Increment Fund") in connection therewith; and

WHEREAS, the City has authorized the University Avenue Corridor Property Acquisition, Demolition and Site Preparation (the "Project") as an urban renewal project in the Urban Renewal Area; and

WHEREAS, certain costs (the "Project Costs") have been and will be incurred in connection with the carrying out of the Project; and

WHEREAS, in order to cover a portion of the Project Costs and to make such Project Costs eligible to be recouped from incremental property tax revenues, it is necessary to facilitate an internal advance of funds;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Windsor Heights, Iowa, as follows:

Section 1. It is hereby directed that an amount not in excess of $177,520 (the "Advance") be advanced from the Economic Development Fund (the "Source Fund") in order to fund a portion of the costs of the Project. The Advance shall be repaid to the Source Fund, without interest thereon, out of incremental property tax revenues received with respect to the Urban Renewal Area.

It is intended that the Advance shall be repaid to the Source Fund in one or more annual installments by June 1, 2028, provided, however, that repayment of the Advance is subject to the determination of the City Council that there are incremental property tax revenues available for such purpose which have been allocated to or accrued in the Tax Increment Fund relative to the Advance, and the City Council reserves the right to appropriate funds to the repayment of the Advance, or to withhold such appropriation at its discretion.

Section 3. The City Council hereby ratifies and confirms the Advance previously certified to the Polk County Auditor pursuant to Iowa Code Section 403.19. The Advance shall remain outstanding according to its original certification, and this Resolution authorizes no duplicate or supplemental certification thereof.

Section 4. A copy of this Resolution shall be filed in the office of the County Auditor of Polk County, Iowa, to evidence the Advance.

PASSED AND APPROVED this June 15, 2026.

_____
Mayor

Attest:

_____
City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Rachelle Swisher, Finance Director

SUBJECT: Approve Resolution No. 2026-47 - A Resolution Approving FY26 IPAIT Transfers for the City of Windsor Heights

GENERAL INFORMATION

Move funds from the IPAIT 201 account to the Bankers Trust Checking account to balance the 73rd Street & 68th Street South Project funds for fiscal year end.

Move the funds from the IPAIT 101 account to the Bankers Trust Checking account. The reason for this transfer is a better interest rate with Bankers Trust Bank.

ATTACHMENTS

1. Resolution No. 2026-47 A Resolution Approving FY26 IPAIT Fund Transfers

Resolution No. 2026-47

A RESOLUTION APPROVING FISCAL YEAR 2026 IOWA PUBLIC AGENCY INVESTMENT TRUST (IPAIT) TRANSFERS, FOR THE CITY OF WINDSOR HEIGHTS, IOWA

WHEREAS, the Windsor Heights City Council approves transfers as needed for budget balancing purposes; and

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Windsor Heights, Iowa, that the transfers outlined below are hereby approved and the Finance Director is authorized to make the transfers in accord with this resolution.

From: IPAIT – Bond Funds (201)
To: 73rd Street – General Checking
Amount: $4,000,000
Effective: 6/16/26

From: IPAIT – Bond Funds (201)
To: 68th Street South – General Checking
Amount: $2,957,064.51
Effective: 6/16/26

From: IPAIT – General Funds (101) to the following funds within the General Checking Account
To: General Fund - $2,217,585.69
To: Road Use Tax - $942,871.73
To: Employee Benefits - $790,816.57
To: TIF – $389,248.18
To: Urban Renewal Funds – $217,745.98
To: Debt Service - $468,319.03
To: Colby Park - $1,584,290.86
To: University Ave - $28,613.52
To: 2020 Street Projects - $12,236.23
To: 73rd Street - $411,143.55
To: 68th St North - $101,252.28
To: Future Street Projects - $330,347.11
To: Equipment Revolving Fund - $1,056,193.93
To: Garbage/Recycling - $213,138.90
To: Storm Water - $1,581,240.45
Total: $10,345,044.01
Effective: 7/15/25

From: IPAIT – General Funds (101) to the following funds within the General Checking Account. Transfer the balance of the account – currently $16,701.03, which could change due to interest earned.
To: General Fund - $2,986.42
To: Road Use Tax - $1,591.04
To: Employee Benefits - $1,334.45
To: TIF – $656.82
To: Urban Renewal Funds – $367.43
To: Debt Service - $790.25
To: Colby Park - $2,673.40

To:	University Ave - $48.29
To:	2020 Street Projects - $20.65
To:	73rd Street - $693.78
To:	68th St North - $170.86
To:	Future Street Projects - $557.44
To:	Equipment Revolving Fund - $1,782.27
To:	Garbage/Recycling - $359.66
To:	Storm Water - $2,668.27
Total:	$16,701.03
Effective:	6/16/26

Passed and approved this 15th day of June 2026.

_____
Mike Jones, Mayor

Attest: _____
Adam Strait, City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Rachelle Swisher, Finance Director

SUBJECT: Approve Resolution No. 2026-48 - A Resolution Approving FY26 Year End Transfers for the City of Windsor Heights.

GENERAL INFORMATION

The attached balance transfers for FY26 are necessary to balance accounts for fiscal year end.

ATTACHMENTS

1. Resolution No. 2026-48 FY26 Balance Transfers

Resolution No. 2026 - 48
A RESOLUTION APPROVING FISCAL YEAR 2026 YEAR END TRANSFERS FOR THE CITY OF WINDSOR HEIGHTS, IOWA

WHEREAS, the Windsor Heights City Council approves inter-fund transfers as needed for budget balancing purposes; and

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Windsor Heights, Iowa, that the transfers outlined below are hereby approved with an effective date of 6/15/2026 and the Finance Director is authorized to make the transfers in accord with this resolution.

From: Tax Increment Financing Fund
To: 2016A Principal, Interest & Bond Fees
Amount: $135,125

From: Tax Increment Financing Fund
To: 2016B Principal, Interest & Bond Fees
Amount: $270,410

From: Tax Increment Financing Fund
To: 2020B Principal, Interest & Bond Fees
Amount: $277,813

From: Tax Increment Financing Fund
To: 2024A Principal, Interest & Bond Fees
Amount: $381,585

From: Tax Increment Financing Fund
To: General Fund – TIF Rebates
Amount: $80,956

From: Tax Increment Financing Fund
To: General Fund – TIF Admin & Professional Support
Amount: $125,000

From: Local Option Sales Tax Fund
To: General Fund – Community Center
Amount: $30,000

From: Local Option Sales Tax Fund
To: General Fund - DART
Amount: $16,874

From: Local Option Sales Tax
To: General Fund – Library
Amount: $69,560

From: Local Option Sales Tax Fund
To: Equipment Revolving Fund
Amount: $225,000

From: Local Option Sales Tax
To: Future Streets Fund
Amount: $1,250,000

From: Local Option Sales Tax
To: Employee Benefits Fund
Amount: $200,000

From: Road Use Tax
To: Equipment Revolving Fund
Amount: $75,000

From: Equipment Revolving Fund
To: CEC Solar Project
Amount: $126,607.34

From: Salt Shed Project
To: Road Use Tax Fund
Amount: $1,035.66

From: 73rd St Project
To: Road Use Tax Fund
Amount: $400,000

From: Future Streets Fund
To: Forest Court Project
Amount: $224,376.86

From: 68th St North
To: Future Street Fund
Amount: $225,667.34

From: 2020 Street Project
To: Future Streets Fund
Amount: $10,437.73

From: Future Streets Fund
To: 74th Street Project
Amount: $250,000

Passed and approved this 15th day of June 2026.

_____
Mike Jones, Mayor

Attest: _____
Adam Strait, City Clerk

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Adam Strait, City Clerk

SUBJECT: Consideration of Tobacco and Alcohol Licenses for Pump & Pantry - 7220 Hickman Road

GENERAL INFORMATION

Pump & Pantry 75, operated by Bosselman Pump & Pantry, Inc., has applied for a Class "E" Retail Alcohol License and a Retail Tobacco Permit for the convenience store located at 7220 Hickman Road, the former Hy-Vee Fast & Fresh location.

As this is a new business entering the Windsor Heights market, staff requested additional information regarding the company's procedures for the sale of age-restricted products.

Pump & Pantry provided documentation outlining its employee training and compliance program. The company requires all employees to complete age-restricted sales training, review and sign an Alcohol, Tobacco, and Vaping Compliance Policy, and request identification from every customer purchasing alcohol, tobacco, vaping, or other age-restricted products. The policy requires employees to verify the authenticity of identification and utilize ID scanning procedures when possible.

In addition to participating in mandatory state compliance checks, Pump & Pantry contracts for biannual third-party compliance testing at each location. Employees who fail internal compliance checks receive disciplinary action and retraining requirements, while employees who fail official compliance checks conducted by law enforcement or regulatory agencies are subject to immediate termination.

ATTACHMENTS

1. Pump & Pantry Tobacco License Application
2. Pump & Pantry Alcohol License Application
3. Pump & Pantry Alcohol License - Ownership Update Application
4. Pump & Pantry Age Verification Procedures
5. AlcoholTobaccoVapingIDComplianceDocument (1)

GovConnectIowa License Administration

CITY OF WINDSOR HEIGHTS

Retail Tobacco License Review

CITY OF WINDSOR HEIGHTS
1009378802

Application Information

Legal Ownership Information

Name of sole proprietor, partnership, corporation, LLC, or LLP	: BOSSELMAN PUMP & PANTRY INC
Type of ownership	: Corporation
Primary office address	: 1607 S LOCUST ST STE A GRAND ISLAND NE 68801-8234
Legal Ownership Phone	: 308-218-2383
Legal Ownership Email	: kinsey.bosselman@bosselman.com

Application Information

Sales and Use Permit Number	: 301102130
Location Name	: PUMP & PANTRY 75
Location Phone Number	: 515-695-3046
Location Address	: 7220 HICKMAN RD WINDSOR HEIGHTS IA 50324-4717
Location Mailing Address	: PO BOX 4905 GRAND ISLAND NE 68802-490
Renewal	: No

Can I help?

Start Date	: 25-Jul-2026
End Date	: 30-Jun-2027
License Fee	: 75.00
Types of Sales	: Over the Counter
Type of Establishment	: Convenience store/gas station
Types of Products Sold	: Cigarettes, Tobacco, Vapor Products, Alternative Nicotine Products
Do you intend to make retail sales to ultimate consumers?	: Yes
Do you have other permits issued under Iowa Code chapter 453A at this retail location? If yes, provide permit number(s) in the next step:	: No

Ownership Details

Owner	Position	Single Line Address
BOSSELMAN, BRANDI	President	963 E SCHIMMER DR GRAND
BOSSELMAN, CHARLES	CEO	3800 E US HIGHWAY 34 GRAN
AITKEN, KINSEY	Owner	2529 W ANNA ST GRAND ISLA

Suppliers List

A list of suppliers for cigarettes, tobacco, alternative nicotine, and vapor products must be included with all retail tobacco permit applications. Applicants may submit this information in text form or as a PDF upload. Local authorities may review this information during the application review process.

File Name	View File

Can I help?

File Name	View File
PP Item list W Supplier.xlsx	View File

Decision

Select the decision of whether you approve or deny this permit application.

Iowa Department of Revenue will be issuing a permit number if this application is approved. However, the local authority has the option to also issue a permit number. If the local authority decides to issue a local permit number, it can be entered in the "Local Permit Number" field. Otherwise, only the state-issued permit number will appear on the permit.

Select a Decision *

Approve	Deny

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CLASS "E" RETAIL ALCOHOL LICENSE APPLICATION

Business Information

Name of Legal Entity: BOSSELMAN PUMP & PANTRY INC

FEIN: XX-XXX8183

Business Type: Corporation

This business is not registered with the Secretary of State.

Premises Information

Premises DBA: PUMP & PANTRY 75

Premises Address: 7220 HICKMAN RD WINDSOR HEIGHTS IA 50324-4717

Premises Type: Convenience Store

Number of Floors: 1

Control of Premises: Own

The total square footage of the entire retail sales area plus any alcoholic beverage storage areas of the business. This includes areas of walk-in alcoholic beverage coolers that are accessible to the public.
4560

Does your premises conform to all local and state health, fire and building laws and regulations?
Yes

Does or will your licensed location wholesale alcoholic beverages to on-premises retail alcohol licensees?
No

License Information

Effective Date: 08-Jul-2026

Length of License Requested: 12MONTH

Endorsements

Local Authority: City of Windsor Heights

Ownership Information

Type	Name	ID Type	ID	DOB	Phone	Address	Percentage
Individual	BOSSELMAN, BRANDI	SSN	***-**-4726	27-May-1968	(308) 218-2800	963 E SCHIMMER DR GRAND ISLAND NE 68801-9532	30.20
Individual	BOSSELMAN, CHARLES	SSN	***-**-4742	02-Nov-1965	(308) 218-2800	3800 E US HIGHWAY 34 GRAND ISLAND NE 68801-0803	30.20
Individual	AITKEN, KINSEY	SSN	***-**-3032	17-Sep-1994	(308) 218-2383	2529 W ANNA ST GRAND ISLAND NE 68803-5830	3.22

Criminal History Details

Has anyone listed on the Ownership page been charged or convicted of a felony offense in Iowa or any other state of the United States?
No

Has anyone listed on the Ownership page been convicted of any violation of any state, county, city, federal or foreign law? For traffic violations, only include those that are drug or alcohol related.
No

Criminal Violations

Contact Information

Contact Name: KINSEY AITKEN

Phone Number: (308) 218-2383

Email Address: kinsey.bosselman@bosselman.com

Address: 1607 S LOCUST ST STE A GRAND ISLAND NE 68801-8234

Bond

Do you want to add a bond for this permit?
No

Premises Hours

Is the premises open 24/7?
No

Store Hours Description:
05:00AM-11:00PM

Deliveries Hours

Are deliveries able to be received 24/7?
No

Delivery Hours Description:
6:00AM-6:00PM

Automatic Renewal Enrollment

Do you wish to enroll in the Automatic Renewal Program at this time?
Yes

Attestation Information

Attestation Name: KINSEY AITKEN

Attestation Date: 15-May-2026

GovConnectIowa License Administration

CITY OF WINDSOR HEIGHTS

Local Authority Review

CITY OF WINDSOR HEIGHTS
1009378802

Owners

Business Information

Customer Type
BUS

Business Sub-Type
Corporation

Business Designation

Legal Business Name
BOSSELMAN PUMP & PANTRY INC

Old Ownership Information

Owner Type	Owner	Single Line Address	Ownership Percentage
Owner	BOSSELMAN, BRANDI	963 E SCHIMMER DR G	30.20
Owner	BOSSELMAN, CHARLES	3800 E US HIGHWAY 34	30.20
Owner	AITKEN, KINSEY	2529 W ANNA ST GRAI	3.22

Can I help?

Updated Ownership Information

Owner Type	Owner	Single Line Address	Ownership Percentage
Owner	BOSSELMAN, BRANDI	963 E SCHIMMER DR G	0.00
Owner	BOSSELMAN, CHARLES	3800 E US HIGHWAY 34	0.00
Owner	AITKEN, KINSEY	2529 W ANNA ST GRAI	0.00
Company	BOSSELMAN HOLDING	1607 S LOCUST ST STE	100.00

Impacted Pending Alcohol License Applications

Case Type	Case Received	Location Name	Location Address
Class "E" Retail Alco	15-May-2026	PUMP & PANTRY 75	7220 HICKMAN RD WINDS

Impacted Pending Retail Tobacco and Device Retailer Applications

Case Type	Case Received	Location Name	Location Address
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 76	3950 PRAIRIE FIRE NW ALT
Retail Tobacco Perm	15-May-2026	PUMP & PANTRY 64	9150 UNIVERSITY AVE WES
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 62	11925 UNIVERSITY AVE CL
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 65	425 S JORDAN CREEK PKW
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 63	1701 SE 37TH STREET GRI
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 73	15501 MEREDITH DR URB

Can I help?

Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 74	9915 DOUGLAS AVE URBA
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 79	4631 E 53RD ST DAVENPO
Retail Tobacco Perm	15-May-2026	PUMP & PANTRY 69	5801 HICKMAN RD DES M
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 78	3200 E KIMBERLY RD DAVE
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 66	300 GRAND AVE WEST DE
Retail Tobacco Perm	15-May-2026	PUMP & PANTRY 71	14200 DOUGLAS PKWY UF
Retail Tobacco Perm	14-May-2026	PUMP & PANTRY 72	12905 MEREDITH DR URB
Retail Tobacco Perm	18-May-2026	PUMP & PANTRY 75	7220 HICKMAN RD WINDS

Criminal History

Has anyone listed on the Ownership page been charged or convicted of a felony offense in Iowa or any other state of the United States?

No

Has anyone listed on the Ownership page been convicted of any violation of any state, county, city, federal or foreign law? For traffic violations, only include those that are drug or alcohol related.

No

Local Authority Information

Local Authority Reviewing

City of Windsor Heights

Local Authority Signature Date

Approved/Denied *

Required

Local Authority Email *

Required

Local Authority Attestation Name *

Required

Local Authority Contact Phone Number *

Required

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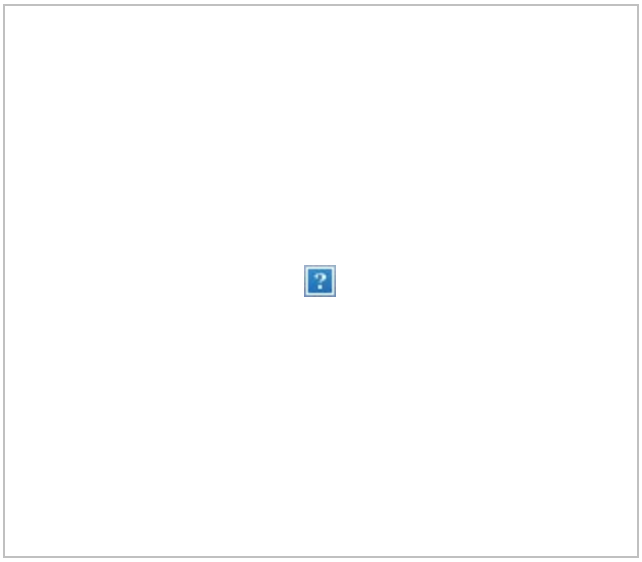
Can I help?

From: Kinsey Bosselman
To: Adam Strait
Subject: RE: Bosselman Pump & Pantry Criminal Check Results
Date: Wednesday, June 3, 2026 12:23:00 PM
Attachments: image001.png
image003.png
image004.png
2025_PPI Handbook Learning Hub.pdf
AlcoholTobaccoVapingIDComplianceDocument (1).pdf

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Adam, below is some information for your councils consideration.

1. All Team Members read and sign the company handbook titled "2025_PPI Handbook Learning Hub". Please review the section titled "Discipline/Standard of Conduct" on page 23-25.
2. All Team Members read and sign the document titled "AlcoholTobaccoVapingIDComplianceDocument"
3. Sell Smart Training through a demo environment can be accessed here: Please use this link: https://www.mikedrebenstedt.com/clients/bosselman/id/gold/?unlock=0
    a. Upon clicking the link, you will initially see a "Connection isn't private" message. You can proceed to the website safely by selecting 'Show advanced' and then clicking the link to continue to the website:



Every Pump & Pantry location is part of the State Patrol's mandatory alcohol and tobacco compliance program for each state it is in. On top of the legally obligated checks, Pump & Pantry contracts with the BARS program to conduct additional biannual compliance checks at each location. In the event an employee sells tobacco, vaping, or alcohol products without following this policy in an internal BARS sting, they receive a last and final warning for their employment with Pump

& Pantry. The entire staff of their location are required to retake the Sell Smart with ID Verification training course to be recertified to sell age restricted products.

If the FDA, State Patrol, or local law enforcement finds that an employee has improperly sold tobacco, vaping, or alcohol products during a compliance check or sting, their employment is immediately terminated and the entire staff of their location are required to retake the Sell Smart with ID Verification training course to be recertified to sell age restricted products. This is laid out in the Alcohol, Tobacco & Vaping Compliance Policy provided to all employees.

The Sell Smart training course will go through an editing process to cater to Iowa statutes and then we will begin the application process with the State of Iowa in order to become a certified training cours. We are one of few companies in Nebraska to have certified this training with the State of Nebraska's Liquor Control Commission and we've noticed a huge improvement with our compliance since doing so. The training is catered to our companies use-case scenarios and legal requirements which makes learning and retention better received.

Through the training course you'll note, we've taken all IT related steps necessary to require an ID barcode scan with each sale on age restricted products. This is enforced by our in house Asset Protection Program Manager who has had a long career in law enforcement. We appreciate your interest in our policies and procedures and we look forward to answering any follow-up questions you may have!

Thank you,



I will be out of the office Friday June 5th through Wednesday June 10th and attending to high importance items as needed remotely.

I will be out of the office Friday June 12th and Friday June 19th.

For urgent items please call my cell at 308-380-6984 and leave a detailed message.

Kinsey Ann Bosselman | *Director of Corporate Planning*
Bosselman Administrative Services, Inc.
1607 South Locust St., Ste A - Box 4905
Grand Island, NE 68802-4905
(308) 218-2383
kinsey.bosselman@bosselman.com

From: Adam Strait <astrait@windsorheights.org>
Sent: Monday, June 1, 2026 2:12 PM
To: Kinsey Bosselman <kinsey.bosselman@bosselman.com>

Alcohol, Tobacco & Vaping Compliance

Welcome to Bosselman! In your new position with Bosselman Pump & Pantry, Inc., it is your responsibility to protect yourself, your company, and our Pump & Pantry customers. All Pump & Pantry employees request identification (ID) from **every** customer for **all** tobacco, vaping, and alcohol product purchases. Pump & Pantry customers must be 21 years of age or older to purchase age-restricted products such as tobacco, vapes, and alcohol in addition to supplying a valid, unexpired form of ID.

Accepted forms of current, unexpired ID are:

- State Issued Driver's License
- Passport
- Nebraska ID Card
- US Military ID
- Resident Alien Card

Accepted forms of ID must be verified as authentic. Validate by using the following criteria:

- Is the person in front of you the person photographed on the ID?
- Confirm the customer's height, eye color, weight.
- Does the ID appear altered in any way? Can you see the holograms embedded in the ID?
- Is the ID blurry, torn, or damaged? Does the signature match the name? Is the printing clear?

It is Bosselman policy to ask for ID and have the ID in your hand **before** scanning the product. The US Food and Drug Administration (FDA) considers scanning the product as a sale, even though the customer has not yet paid for the product. **You can be cited for selling tobacco, vaping, or alcohol products to a minor if the product is scanned without having accepted the ID in your hand.** It may not always be possible to scan the form of ID, making it necessary to enter the birthdate manually. Bosselman routinely reviews reports verifying that accurate date of births are manually entered into the point of sale system.

The FDA, Nebraska State Patrol, BARS, and local law enforcement help us to ensure that Bosselman Pump & Pantry is lawfully selling tobacco**,** vaping, and alcohol products.

If you sell tobacco, vaping, or alcohol products without following this policy in an internal BARS sting, you will receive a last and final warning for your employment with Bosselman. The entire staff of your location will have to re-take the training courses to be re-certified to sell tobacco, vaping, and alcohol products.

If the FDA, Nebraska State Patrol, or local law enforcement finds that you have improperly sold tobacco, vaping, or alcohol product your employment will be immediately terminated. The state and federal government can choose to prosecute you civilly and criminally. **The consequences of not requesting ID every time from every customer can be permanent and severe.**

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Adam Strait, City Clerk

SUBJECT: Consideration of Tobacco License for Caseys - 6961 University Ave

GENERAL INFORMATION

Casey's General Store, located at 6961 University Avenue, has submitted an application for a Retail Tobacco Permit.

As part of the City's ongoing compliance efforts, the Windsor Heights Police Department conducted two tobacco compliance checks at this location within the past 12 months. Compliance checks were conducted on November 26, 2025, and March 18, 2026. Casey's successfully passed both compliance checks without violation.

ATTACHMENTS

1. Caseys Tobacco License Application

GovConnectIowa License Administration

CITY OF WINDSOR HEIGHTS

Retail Tobacco License Review

CITY OF WINDSOR HEIGHTS
1009378802

Application Information

Legal Ownership Information

Name of sole proprietor, partnership, corporation, LLC, or LLP	: CASEYS MARKETING COMPANY
Type of ownership	: Corporation
Primary office address	: 1 SE CONVENIENCE BLVD ANKENY IA 50021-9672
Legal Ownership Phone	: 515-381-4090
Legal Ownership Email	: licensingteam@caseys.com

Application Information

City/County Permit Number	: 25-3
Sales and Use Permit Number	: 304605425
Location Name	: CASEY'S #4372
Location Phone Number	: 515-289-5602
Location Address	: 6961 UNIVERSITY AVE WINDSOR HEIGHTS IA 50324-1532
Location Mailing Address	: 1 SE CONVENIENCE BLVD ANKENY IA 50021-9672

Can I help?

Renewal	: Yes
Start Date	: 01-Jul-2026
End Date	: 30-Jun-2027
License Fee	: 75.00
Types of Sales	: Over the Counter
Type of Establishment	: Convenience store/gas station
Types of Products Sold	: Cigarettes, Tobacco, Vapor Products, Alternative Nicotine Products
Do you intend to make retail sales to ultimate consumers?	: Yes
Do you have other permits issued under Iowa Code chapter 453A at this retail location? If yes, provide permit number(s) in the next step:	: No

Ownership Details

Owner	Position	Single Line Address
FABER, SCOTT	Officer	6749 CARDIFF CT JOHNSTON
LARSEN, ERIC	Owner	4407 NW 5TH ST ANKENY IA 5
BEECH, DOUGLAS	Owner	729 NE BROOK HAVEN DR AN
CASEY'S GENERAL STORES, IN	Company	1 SE CONVENIENCE BLVD ANK
JOHNSON, BRIAN	Officer	9129 NW 73RD CIR JOHNSTOI
JAMES, SAMUEL	Owner	3204 NE AVERY DR ANKENY IA

Suppliers List

A list of suppliers for cigarettes, tobacco, alternative nicotine, and vapor products must be included with all retail tobacco permit applications. Applicants may submit this information

Can I help?

in text form or as a PDF upload. Local authorities may review this information during the application review process.

File Name	View File
2026 TOBACCO SUPPLIERS.pdf	View File

Decision

Select the decision of whether you approve or deny this permit application.

Iowa Department of Revenue will be issuing a permit number if this application is approved. However, the local authority has the option to also issue a permit number. If the local authority decides to issue a local permit number, it can be entered in the "Local Permit Number" field. Otherwise, only the state-issued permit number will appear on the permit.

Select a Decision *

Approve	Deny

Cancel

Previous

Next

Your online session will timeout after 30 minutes of inactivity. All unsaved information will be lost.

Resources

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Can I help?

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Adam Strait, City Clerk

SUBJECT: Consideration of the 3rd Reading of Ordinance 26-01 - An Ordinance Adopting the "Code of Ordinances of the City of Windsor Heights, Iowa"; and to Adopt and Publish

GENERAL INFORMATION

The proposed ordinance amendments consist of one administrative correction and one substantive update to the City's nuisance regulations. These changes are intended to improve code clarity and address evolving concerns related to residential lighting impacts.

Proposed Amendments

1. Chapter 40.06 – Scrivener's Error Correction

The subchapter menu titles within Chapter 40.06 contain section numbering that does not accurately correspond to the adopted section numbers. This amendment updates the menu title references to reflect the correct section numbering. No substantive changes to ordinance requirements or regulations are proposed.

2. Chapter 50.02 – Nuisances Enumerated (Light Trespassing)

The current nuisance provision addressing floodlights is proposed to be replaced with broader "Light Trespassing" language.

Current Language:

Floodlights. Permitting or allowing the illumination of floodlights, yard lights, or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.

Proposed Language:

Light Trespassing. No person shall permit artificial lighting, whether located inside or outside a structure, to create direct glare or light trespass onto adjacent residential property in a manner that interferes with the reasonable use and enjoyment of that property, including but not limited to direct glare, light spillover from windows, skylights or other openings onto adjacent property from indoor and/or outdoor lighting fixtures that emit light beyond their intended area.

The revised language expands the nuisance standard beyond floodlights and exterior fixtures to include intrusive artificial lighting originating from either inside or outside a structure. The amendment provides a more comprehensive framework for addressing lighting conditions that negatively affect neighboring residential properties.

ATTACHMENTS

1. Ordinance 26-01 AN ORDINANCE ADOPTING THE “CODE OF ORDINANCES
2. CODE Windsor Heights (Updated 6.2026)

ORDINANCE NO. 26-01

AN ORDINANCE ADOPTING THE "CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA"

BE IT ORDAINED by the City Council of the City of Windsor Heights, Iowa, that:

SECTION 1. Pursuant to published notice and following public hearing on the 4th day of May, 2026, so required by Sections 362.3 and 380.8, Code of Iowa, there is hereby adopted by the City of Windsor Heights, Iowa, the "CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA."

SECTION 2. All of the provisions of the "CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA," shall be in force and effect on and after the effective date of this ordinance.

SECTION 3. All ordinances or parts thereof in force on the effective date of this ordinance are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

SECTION 4. The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authorizing the issuance of any bonds of said City or any evidence of said City's indebtedness or any contract or obligation assumed by said City; nor shall said repeal affect the administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of "THE CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA"; nor shall it affect the following ordinances specifically saved from repeal:

URBAN RENEWAL

ORDINANCE NO.	ADOPTED	NAME OF AREA
16-10	November 7, 2016	Second Amended and Restated Urban Renewal Area

VACATION AND DISPOSAL OF STREETS

ORDINANCE NO.	ADOPTED
66-7	October 21, 1966
67-4	June 26, 1967
71-2	June 21, 1971
71-3	June 21, 1971
71-4	June 21, 1971
71-5	June 21, 1971
71-6	June 21, 1971
71-7	June 21, 1971
80-2	May 19, 1980
97-1	March 3, 1997
97-6	April 21, 1997

STREET GRADES

ORDINANCE NO.	ADOPTED
20B	May 25, 1956
20	May 19, 1958
20C	September 22, 1958
20D	April 6, 1959
20E	
9-2159	
87-15	October 5, 1987

ZONING MAP

ORDINANCE	ADOPTED
98-1	February 2, 1998
99-2	April 5, 1999
2-Jul	July 16, 2007
3-Sep	April 6, 2009
19-07	October 21, 2019

COMPREHENSIVE PLAN

ORDINANCE NO.	ADOPTED
17-04	May 25, 2017

nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council or any other person or corporation; nor shall it affect any ordinance naming, establishing, relocating or vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance amending the official zoning map, establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance.

SECTION 5. The following ordinances, passed subsequent to the preparation of this code but prior to adoption of this code, are hereby adopted and made a part of this code. These are ordinances NONE. Said ordinances shall be codified and incorporated in published copies of this code as supplements thereto following adoption of this ordinance.

SECTION 6. An official copy of the "CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA," adopted by this ordinance, including a certificate of the City Clerk as to its adoption and the effective date, is on file in the office of the City Clerk, and shall be kept available for public inspection.

SECTION 7. The City Clerk shall furnish a copy of the "CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA," to the Judicial Magistrates serving the City of Windsor Heights.

SECTION 8. This ordinance shall be in full force and effect from and after the publication of this ordinance, as required by law.

Passed by the City Council of the City of Windsor Heights, Iowa, the 15th day of June, 2026.

_____
MAYOR

ATTEST:_____
CITY CLERK

First Reading: May 18, 2026

Second Reading: June 1, 2026

Third Reading: June 15, 2026

CLERK'S CERTIFICATE

I hereby certify that the foregoing Ordinance No._____ was published as required by law on the ____ day of _____, _____.

SIGNED_____
CITY CLERK

CLERK'S CERTIFICATE

State of Iowa)
) SS
County of _____)

I, _____, City Clerk of the City of Windsor Heights, Iowa, hereby certify that the "CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA," was adopted by the City Council of the City of Windsor Heights, Iowa, and that an official copy of said Code of Ordinances is on file at the office of the City Clerk, City of Windsor Heights, Iowa, and that Ordinance No._____ adopting said Code of Ordinances was passed by the City Council of the City of Windsor Heights, Iowa, on the _____ day of _____, _____, signed by the Mayor on the _____ day of _____, _____; duly recorded and published as provided by law, and that the effective date of said Code is _____, _____.

Witness my hand and official seal of the City of Windsor Heights, Iowa, this ____ day of _____, _____.

SIGNED: _____
CITY CLERK
CITY OF WINDSOR HEIGHTS, IOWA

CODE OF ORDINANCES

OF THE

CITY OF

WINDSOR HEIGHTS, IOWA

Prepared By: **Local Government Professional Services, Inc.**
DBA Iowa Codification
P. O. Box 244
114 E 5th Street
Storm Lake, Iowa 50588
(641) 355-4072
www.sc-ic.com

CODE OF ORDINANCES
OF THE
CITY OF WINDSOR HEIGHTS, IOWA

Adopted _____, 2026, by Ordinance No. _____

SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**

CODE OF ORDINANCES
CITY OF WINDSOR HEIGHTS, IOWA

TABLE OF CONTENTS

GENERAL CODE PROVISIONS

CHAPTER 1 - CODE OF ORDINANCES 1

CHAPTER 2 - CHARTER 9

CHAPTER 3 - MUNICIPAL INFRACTIONS 15

CHAPTER 4 - BOUNDARIES 23

CHAPTER 5 - OPERATING PROCEDURES 35

CHAPTER 6 - CITY ELECTIONS 45

CHAPTER 7 - FISCAL MANAGEMENT 51

CHAPTER 9 - HOTEL - MOTEL TAX 75

CHAPTER 10 - URBAN RENEWAL 83

CHAPTER 11 - URBAN REVITALIZATION 89

ADMINISTRATION, BOARDS, AND COMMISSIONS

CHAPTER 15 - MAYOR 123

CHAPTER 16 - MAYOR PRO TEM 129

CHAPTER 17 - CITY COUNCIL 135

CHAPTER 18 - CITY CLERK 145

CHAPTER 19 - FINANCE DIRECTOR 153

CHAPTER 20 - CITY ATTORNEY 159

TABLE OF CONTENTS

ADMINISTRATION, BOARDS, AND COMMISSIONS (CONTINUED)

CHAPTER 21 - CITY ADMINISTRATOR....165

CHAPTER 22 - PUBLIC WORKS DIRECTOR....171

CHAPTER 23 - PLANNING AND ZONING COMMISSION....177

POLICE, FIRE, AND EMERGENCIES

CHAPTER 30 - POLICE DEPARTMENT....235

CHAPTER 31 - ALARM SYSTEMS....243

CHAPTER 35 - FIRE DEPARTMENT....279

CHAPTER 36 - HAZARDOUS SUBSTANCE SPILLS....287

PUBLIC OFFENSES

CHAPTER 40 - PUBLIC OFFENSES....323

SUBCHAPTER 40.01 - PUBLIC PEACE....323

SUBCHAPTER 40.02 - PUBLIC HEALTH AND SAFETY....335

SUBCHAPTER 40.03 - PUBLIC AND PRIVATE PROPERTY....347

SUBCHAPTER 40.04 - DRUGS AND CONTROLLED SUBSTANCES....359

SUBCHAPTER 40.05 - WEAPONS....367

SUBCHAPTER 40.06 - ALCOHOL CONSUMPTION AND INTOXICATION....375

SUBCHAPTER 40.07 - MINORS....381

SUBCHAPTER 40.08 - PARK REGULATIONS....387

SUBCHAPTER 40.09 - OTHER PUBLIC OFFENSES ENFORCEMENT PROVISIONS....395

NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE....401

CHAPTER 51 - JUNK AND JUNK VEHICLES....411

CHAPTER 52 - ABANDONED VEHICLES....417

TABLE OF CONTENTS

NUISANCES AND ANIMAL CONTROL (CONTINUED)

CHAPTER 53 - LITTER CONTROL 425

CHAPTER 54 - NOISE CONTROL 433

CHAPTER 55 - ANIMAL PROTECTION AND CONTROL 445

CHAPTER 56 - DANGEROUS DOGS 465

CHAPTER 57 - ILLEGAL OR DANGEROUS ANIMALS 477

TRAFFIC AND VEHICLES

CHAPTER 60 - TRAFFIC AND VEHICLES 507

SUBCHAPTER 60.01 - ADMINISTRATION OF TRAFFIC CODE 507

SUBCHAPTER 60.02 - TRAFFIC CONTROL DEVICES 515

SUBCHAPTER 60.03 - GENERAL TRAFFIC REGULATIONS 521

SUBCHAPTER 60.04 - SPEED REGULATIONS 533

SUBCHAPTER 60.05 - TURNING REGULATIONS 539

SUBCHAPTER 60.06 - STOP OR YIELD REQUIRED 545

SUBCHAPTER 60.07 - LOAD AND WEIGHT RESTRICTIONS 551

SUBCHAPTER 60.08 - PEDESTRIANS 557

SUBCHAPTER 60.09 - ONE-WAY TRAFFIC 563

SUBCHAPTER 60.10 - PARKING REGULATIONS 569

SUBCHAPTER 60.11 - TRAFFIC CODE ENFORCEMENT PROCEDURES 579

SUBCHAPTER 60.12 - ATVS, UTVS, AND SNOWMOBILES 587

SUBCHAPTER 60.13 - BICYCLE REGULATIONS 595

SUBCHAPTER 60.14 - OPERATION OF GOLF CARTS ON CITY STREETS 603

WATER

CHAPTER 90 - WATER SERVICE SYSTEM 701

CHAPTER 91 - CROSS CONNECTION CONTROL 707

TABLE OF CONTENTS

SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM 747

CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS 757

CHAPTER 97 - USE OF PUBLIC SEWERS 765

CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS 771

CHAPTER 100 - REGULATING OF INDUSTRIAL WASTEWATER AND COMMERCIAL WASTEWATER 789

CHAPTER 101 - STORMWATER DRAINAGE UTILITY 875

CHAPTER 102 - ILLICIT DISCHARGE TO STORM SEWER SYSTEM 881

GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL AND RECYCLING 911

CHAPTER 106 - COLLECTION OF SOLID WASTE 923

CHAPTER 107 - SOLID WASTE DISPOSAL 931

FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE 959

CHAPTER 111 - ELECTRIC FRANCHISE 969

CHAPTER 112 - FRANCHISE FEES 979

CHAPTER 113 - CABLE TELEVISION REGULATIONS 985

REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS 1047

CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS 1055

CHAPTER 122 - PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS 1063

CHAPTER 123 - HOUSE MOVERS 1073

CHAPTER 124 - PAWNBROKERS 1079

TABLE OF CONTENTS

REGULATION OF BUSINESS AND VOCATIONS (CONTINUED)

CHAPTER 125 - ADULT ENTERTAINMENT FACILITIES 1091

CHAPTER 127 - MOBILE FOOD UNITS 1111

STREETS AND SIDEWALKS

CHAPTER 135 - EXCAVATION OF PUBLIC PROPERTY 1181

CHAPTER 136 - SIDEWALK REGULATIONS 1195

CHAPTER 137 - VACATION AND DISPOSAL OF STREETS 1207

CHAPTER 138 - STREET GRADES 1213

CHAPTER 139 - NAMING OF STREETS 1219

CHAPTER 140 - DRIVEWAY REGULATIONS 1225

CHAPTER 141 - FIBER OPTIC CABLE LICENSE 1231

CHAPTER 142 - PARKLETS 1239

BUILDING AND PROPERTY REGULATIONS

CHAPTER 151 - TREES AND VEGETATION 1323

CHAPTER 152 - TEMPORARY STRUCTURES 1333

CHAPTER 153 - TEMPORARY SIGNS 1339

CHAPTER 155 - BUILDING CODES 1357

CHAPTER 156 - PROPERTY MAINTENANCE AND RENTAL HOUSING CODE 1395

CHAPTER 157 - STANDARD CONSTRUCTION SPECIFICATIONS 1409

CHAPTER 160 - CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL 1435

CHAPTER 161 - POST-CONSTRUCTION STORMWATER CONTROL 1451

CHAPTER 163 - DEMOLITION AND RAZE PERMIT 1489

TABLE OF CONTENTS

ZONING AND SUBDIVISION

CHAPTER 165 - ZONING CODE - GENERAL PROVISIONS 1511

CHAPTER 166 - ZONING CODE - DEFINITIONS 1517

CHAPTER 167 - ZONING CODE - USE TYPES 1551

CHAPTER 168 - ZONING CODE - ZONING DISTRICT REGULATIONS 1569

CHAPTER 169 - ZONING CODE - OVERLAY DISTRICT 1585

CHAPTER 170 - ZONING CODE - DEVELOPMENT AND DESIGN STANDARDS 1591

CHAPTER 171 - ZONING CODE - TEMPORARY USES AND STRUCTURES 1607

CHAPTER 172 - ZONING CODE - SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS 1619

CHAPTER 173 - ZONING CODE - LANDSCAPING AND SCREENING STANDARDS 1645

CHAPTER 174 - ZONING CODE - ACCESS AND PARKING 1661

CHAPTER 175 - ZONING CODE - SIGN REGULATIONS 1677

CHAPTER 176 - ZONING CODE - NONCONFORMING DEVELOPMENT 1689

CHAPTER 177 - ZONING CODE - ADMINISTRATION AND PROCEDURES 1697

CHAPTER 178 - COMPREHENSIVE PLAN 1705

CHAPTER 179 - BOARD OF ADJUSTMENT 1711

CHAPTER 180 - CONDITIONAL USE PERMITS 1719

CHAPTER 181 - ADMINISTRATION AND ENFORCEMENT 1729

CHAPTER 182 - VACANT PROPERTY REGISTRATION 1737

CHAPTER 185 - FLOODPLAIN MANAGEMENT 1773

TABLE OF CONTENTS

INDEX

APPENDIX:

USE AND MAINTENANCE OF THE CODE OF ORDINANCES.....1

SUGGESTED FORMS:

DANGEROUS BUILDINGS - FIRST NOTICE.....7
DANGEROUS BUILDINGS - NOTICE OF HEARING.....8
DANGEROUS BUILDINGS - RESOLUTION AND ORDER.....9

NOTICE TO ABATE NUISANCE.....10

NOTICE OF REQUIRED SEWER CONNECTION.....11
NOTICE OF HEARING ON REQUIRED SEWER CONNECTION.....12
RESOLUTION AND ORDER FOR REQUIRED SEWER CONNECTION.....13

APPLICATION FOR A BUILDING/LAND USE PERMIT.....15
BUILDING/LAND USE PERMIT.....16

APPLICATION FOR CERTIFICATE OF OCCUPANCY.....17
CERTIFICATE OF OCCUPANCY.....18

TABLE OF CONTENTS

° ° ° ° ° ° ° ° ° ° °

CHAPTER 1

CODE OF ORDINANCES

1.01 Title
1.02 Definitions
1.03 City Powers
1.04 Indemnity
1.05 Personal Injuries
1.06 Rules of Construction
1.07 Extension of Authority
1.08 Amendments
1.09 Catchlines and Notes
1.10 Altering Code
1.11 Severability
1.12 Right of Entry
1.13 General Standards for Action
1.14 Standard Penalty

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

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

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.

2. "City" means the city of Windsor Heights, Iowa.

3. "Clerk" means the city clerk of Windsor Heights, 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 or a standard code adopted by reference).

5. "Code of Ordinances" means the Code of Ordinances of the City of Windsor Heights, Iowa.

6. "Council" means the city council of Windsor Heights, Iowa.

7. "County" means Polk County, Iowa.

8. "IAC" means the *Iowa Administrative Code*.

9. "May" confers a power.

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

11. "Must" states a requirement.

12. "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.

13. "Ordinances" means the ordinances of the City of Windsor Heights, Iowa, as embodied in this Code, ordinances not repealed by the ordinance adopting this Code, and those enacted hereafter.

14. "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.

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

16. "Shall" imposes a duty.

17. "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.

18. "State" means the State of Iowa.

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

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

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

1.03 CITY POWERS. The City may, except as expressly limited by the *Iowa Constitution*, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the City and of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents, and each and every provision of this Code 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, by making such application, assumes and agrees to pay for any injury to or death of any person or persons whomsoever, and any loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly, or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees, or servants of such applicant, to abide by or comply with any of the provisions of this Code 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 or any other ordinance of the City, whether expressly recited therein or not.

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

1.12 RIGHT OF ENTRY.

1. Right of Entry. Whenever necessary to make an inspection to enforce any ordinance, or whenever there is reasonable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by ordinance; provided, except in emergencies, such official shall first give the owner or occupant, if they can be located after reasonable effort, 24-hour written notice of the authorized official's intention to inspect. In the event the owner or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

2. Warrants. If consent to enter upon or inspect any building, structure, or property pursuant to a municipal ordinance is withheld by any person having the lawful right to exclude, the City officer or employee having the duty to enter upon or conduct

the inspection may apply to the Iowa District Court in and for the County, pursuant to Section 808.14 of the *Code of Iowa*, for an administrative search warrant which is reasonable with respect to time and scope. The presence or absence of law enforcement should be disclosed in the application. The City shall notify the owner and occupant of the dwelling unit, rooming unit, structure, building, or premises of the application for the administrative search warrant by:

A. Posting such notice on the property to be inspected, and

B. Sending the notice via regular mail to the owner of record.

The occupant of the dwelling unit, rooming unit, structure, building, or premises shall have the opportunity to be heard at any hearing for an administrative search warrant. No owner, operator, or occupant or any other person having charge, care, or control of any dwelling unit, rooming unit, structure, building, or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

(Code of Iowa, Sec. 808.14)

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

1.14 STANDARD PENALTY. The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by this Code or any technical code adopted in this Code by reference or the omission or failure to perform any act or duty required by this Code or any technical code adopted in this Code by reference is, unless another penalty is specified, punishable by a fine in a sum not exceeding the maximum punishable under State law for commission of a simple misdemeanor in addition to applicable surcharges and costs.[†]

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

[The next page is 9]

[†] **EDITOR'S NOTE:** For civil penalty for violations of this Code, see Chapter 3.

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties of City Officers
2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

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

[†] **EDITOR'S NOTE**: Ordinance No. 75-6 adopting a charter for the City was passed and approved by the Council on September 15, 1975, and was published on September 16, 1975.

[The next page is 15]

CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties
3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties
3.07 Habitual Offenders

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

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

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.

2. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.

3. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

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

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

1. Standard Civil Penalties.

   A. First offense – not to exceed $750.00.

   B. Each repeat offense – not to exceed $1,000.00.

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

2. Special Civil Penalties.

   A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an

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

industrial user is punishable by a penalty of not more than $1,000.00 for each day a violation exists or continues.

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

(1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

(2) The City is notified of the violation within 24 hours from the time that the violation begins.

(3) The violation does not continue in existence for more than eight hours.

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

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

1. The name and address of the defendant.

2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.

4. The amount of civil penalty to be assessed or the alternative relief sought, or both.

5. The manner, location, and time in which the penalty may be paid.

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

8. The legal description of the affected real property, if applicable.

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

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

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

3.06 ALTERNATIVE PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code 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 by criminal sanctions or other lawful means.

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

3.07 HABITUAL OFFENDERS. For purposes of this section, "habitual offender" means any person that on at least three occasions within a 12-month period has:

1. Received a citation, either civil or criminal, of a violation of this Code; or

2. Has had abatement action initiated against any property the habitual offender owns.

It shall be a separate citable offense to be a habitual offender of this Code. A habitual offender administrative fee, outlined in the Fee Schedule, may be assessed for each citation above three issued to the same violator within any 12-month period, which fee shall be in addition to any fine otherwise due pursuant to this Code.

[The next page is 23]

CHAPTER 4

BOUNDARIES

4.01 Corporate Limits **4.02 Voting Precincts**

4.01 CORPORATE LIMITS. The corporate limits of the City are described as follows:

CITY OF WINDSOR HEIGHTS, IOWA
CORPORATE BOUNDARY

[A] Commencing at the intersection of the centerline of Center Street and the centerline of 63rd Street (which point is the center of Sec. 2, T. 78N, R. 25W); thence northerly along the centerline of 63rd Street (which line is the east line of the NW¼ of Sec. 2, T. 78N, R. 25W) a distance of 3,150 feet, more or less, to the centerline of University Avenue (which point is the NE corner of the NW¼ of Sec. 2, T. 78N, R. 25W); thence westerly along the centerline of University Avenue (which line is the south line of the SE¼ of Sec. 36, T. 79N, R. 25W) a distance of 15 feet, more or less, to the centerline of 63rd Street (which point is 989.8 feet, more or less, east of the SW corner of the SE¼ of Sec. 36, T. 79N, R. 25W); thence northerly along the centerline of 63rd Street a distance of 2,620 feet, more or less, to an extension to the east of the centerline of College Avenue (which point is 992 feet, more or less, east of the center of Sec. 36, T. 79N, R. 25W); thence east along an extension to the east of the centerline of College Avenue (which line is the south line of the NE¼ of Sec. 36, T. 79 N, R. 25 W) a distance of 8 feet, more or less, to the centerline of 63rd Street (which point is 1,000 feet east of the center of Sec. 36, T. 79N, R. 25W); thence northerly along the centerline of 63rd Street a distance of 2,260 feet, more or less, to the south right-of-way line of Hickman Road (which point is 33 feet east of the NE corner of Lot 1, SUBURBAN FARMS, an Official Plat, and 33 feet south of the north line of the NE¼ of Sec. 36, T. 79N, R. 25W)[B] (the line between[A] and[B] being the common corporate boundary line between the City of Windsor Heights and the City of Des Moines); thence westerly along the south right-of-way line of Hickman Road (the location of which line was established pursuant to a Joint Public Improvement Agreement dated May 1, 1969, between the Iowa State Highway Commission and the City of Windsor Heights, Iowa, identified as No. 68-P-175 in connection with Polk County Project No. U-6-4(4)-40-77, which agreement is recorded in the office of the Polk County Recorder in Book 4027, commencing at Page 601, as amended by Amendment to Joint Public Improvement Agreement dated June 16, 1975, between the same parties regarding the same project, which amendment is recorded in the office of the Polk County Recorder in Book 4530, commencing at Page 663) in the NE¼ of Sec. 36, T. 79N, R. 25W, the NW¼ of Sec. 36, T. 79N, R. 25W and the NE¼ of Sec. 35, T. 79N, R. 25W a distance of 6,216.9 feet, more or less, to the NW corner of Lot 18, PLAZA HILLS PLAT 5, an Official Plat (which point is 74.1 feet south of the NW corner of the NE¼ of Sec. 35, T. 79N, R. 25W)[C]; thence southerly along the west lines of PLAZA HILLS PLAT 5 and PLAZA HILLS PLAT 6, an Official Plat (which line is the west line of the NE¼ of Sec. 35, T. 79N, R. 25W) a distance of 2,353.9 feet, more or less, to the northwest corner of Lot 135,

PLAZA HILLS PLAT 5; thence easterly along the north lines of Lots 135 and 136, PLAZA HILLS PLAT 5, a distance of 342 feet, more or less, to the west right-of-way line of College Drive (which point is the northeast corner of Lot 136, PLAZA HILLS PLAT 5); thence southerly along the west right-of-way line of College Drive (which line is the east line of Lot 136, PLAZA HILLS PLAT 5) a distance of 254 feet, more or less, to the north right-of-way line of Harbach Boulevard (which point is the southeast corner of Lot 136, PLAZA HILLS PLAT 5); thence easterly along an easterly extension of the north right-of-way line of Harbach Boulevard a distance of 50 feet, more or less, to a point on the east right-of-way line of College Drive (which point is on the west line of Lot 61, PLAZA HILLS PLAT 5); thence southerly along the east right-of-way line of College Drive (which line is the west line of Lot 61, PLAZA HILLS PLAT 5) a distance of 33 feet, more or less, to the southwest corner of Lot 61, PLAZA HILLS PLAT 5 (which point is on the south line of the NE¼ of Sec. 35, T. 79N, R. 25W); thence easterly along the south lines of PLAZA HILLS PLAT 5 and PLAZA HILLS PLAT 4, an Official Plat (which line is on the south line of the NE¼ of Sec. 35, T. 79N, R. 25W) a distance of 1,577.5 feet, more or less, to the northwest corner of PROGRESSO PLAT 10, an Official Plat; thence southerly along the west lines of PLAT 10 and MOTT PLACE, an Official Plat, a distance of 2,410.5 feet, more or less, to the southwest corner of Lot 25, MOTT PLACE; thence easterly along the south line of Lot 25, MOTT PLACE, a distance of 95 feet, more or less, to the northwest corner of Lot 27, MOTT PLACE; thence southerly along the west line of Lot 27, MOTT PLACE, a distance of 208 feet, more or less, to the north right-of-way line of University Avenue (which point is the southwest corner of Lot 27, MOTT PLACE); thence easterly along the north right-of-way line of University Avenue (which line is the south line of Lot 27, MOTT PLACE) a distance of 8.5 feet, thence south 0° 00' east a distance of 80.0 feet to the south right-of-way line of University Avenue; thence south 90° 0' east along the south right-of-way line of University Avenue; (which line is 40 feet south of and parallel to the north line of Sec. 3, T. 78N, R. 25W) a distance of 146.6 feet, to a point 40 feet south of and 21.9 feet east of the NW corner of the NE¼ of the NE¼ of Sec. 3, T. 79N, R. 25W[D]; thence south 0° 00' east a distance of 10 feet; thence north 90° 00' east a distance of 22 feet; thence south 2° 18' east, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 117.5 feet; thence southerly 40.0 feet west of and parallel to the centerline of 73rd Street, along a curve concave westerly with a radius of 1,100.57 feet and an internal angle of 10° 15', with said curve tangent to the preceding and following courses, a distance of 196.89 feet; thence south 7° 57' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 386 feet; thence south 6° 32' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 220 feet; thence north 83° 28' west, perpendicular to the centerline of 73rd Street, a distance of 28 feet; thence south 6° 32' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 300 feet, more or less, to the northeasterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; (the line between[C] and[E] being the common corporate boundary line between the City of Windsor Heights and the City of Clive) (the line between[D] and[E] being the line which was established pursuant to an Intergovernmental Corporation Boundary Agreement dated March 18, 1971, between the City of Windsor Heights and the City of Clive, which agreement is recorded in the office of the Polk County Recorder in Book 4198, commencing at Page 413, and which agreement was legalized by Acts 1971 (64 G.A., 1st

Sess.) ch. 284); thence south 6° 32' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 150 feet, more or less, to the southwesterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; thence southerly and easterly along the west and south right-of-way lines of 73rd Street (formerly Rancho Grande Boulevard) a distance of 293 feet, more or less, to the northwest corner of RANCHO GRANDE, an Official Plat; thence southerly along the west line of RANCHO GRANDE (which line is the west line of the SE¼ of the NE¼ of Sec. 3, T. 78N, R. 25W) a distance of 1,003.7 feet, more or less, to a point which is 415.5 feet north of the southwest corner of RANCHO GRANDE[F]; thence southeasterly a distance of 55 feet, more or less, to a point on the west line of Lot 13, RANCHO GRANDE, which point is 48 feet north of the southwest corner of Lot 13, RANCHO GRANDE; thence southeasterly a distance of 180 feet, more or less, to the southeast corner of Lot 15, RANCHO GRANDE; thence southeasterly a distance of 320 feet, more or less, to the northeast corner of Lot 25, RANCHO GRANDE; thence southeasterly a distance of 65 feet, more or less, to the northwest corner of Lot 26, RANCHO GRANDE; thence southeasterly to a point on the south line of Lot 29, RANCHO GRANDE, which point is 20 feet east of the southwest corner of Lot 29, RANCHO GRANDE[G] (the line between[F] and[G] being the line which is the south right-of-way line of Interstate Highway 235); thence east along the south line of RANCHO GRANDE, and an extension thereof to the east, a distance of 614.4 feet, more or less, to the centerline of Eighth Street (which point is 33 feet east of the southeast corner of RANCHO GRANDE); thence northerly along the centerline of Eighth Street (which is the east line of Sec. 3, T. 78N, R. 25W) a distance of 99.7 feet to the centerline of Center Street (which point is the southwest corner of the NW¼ of Sec. 2, T. 78N, R. 25W); thence easterly along the centerline of Center Street (which line is the south line of the NW¼ of Sec. 2, T. 78N, R. 25W) a distance of 977.5 feet to the east line of Lot 44, JANET'S WOODS, an Official Plat[H] (the line between[E] and[H] being the common corporate boundary line between the City of Windsor Heights and the City of West Des Moines); thence easterly along the centerline of Center Street (which line is the south line of the NW¼ of Sec. 2, T. 78N, R. 25W) a distance of 1,662.5 feet, more or less, to the point of beginning (the line between[H] and[A] being the common corporate boundary line between the City of Windsor Heights and the City of Des Moines).

Said boundaries may also be described as follows:

CITY OF WINDSOR HEIGHTS, IOWA
CORPORATE BOUNDARY

Commencing at the intersection of the centerline of Center Street and the centerline of 63rd Street; thence northerly along the centerline of 63rd Street a distance of 3,150 feet, more or less, to the centerline of University Avenue; thence westerly along the centerline of University Avenue a distance of 15 feet, more or less, to the centerline of 63rd Street; thence northerly along the centerline of 63rd Street a distance of 2,620 feet, more or less, to an extension to the east of the centerline of College Avenue; thence east along an extension

to the east of the centerline of College Avenue a distance of 8 feet, more or less, to the centerline of 63rd Street; thence northerly along the centerline of 63rd Street a distance of 2,260 feet, more or less, to the south right-of-way line of Hickman Road; thence westerly along the south right-of-way line of Hickman

Road in the NE¼ of Sec. 36, T. 79N, R. 25W, the NW¼ of Sec. 36, T. 79N, R. 25W and the NE¼ of Sec. 35, T. 79N, R. 25W a distance of 6,216.9 feet, more or less, to the NW corner of Lot 18, PLAZA HILLS PLAT 5, an Official Plat; thence southerly along the west lines of PLAZA HILLS PLAT 5 and PLAZA HILLS PLAT 6, an Official Plat a distance of 2,353.9 feet, more or less, to the northwest corner of Lot 135, PLAZA HILLS PLAT 5; thence easterly along the north lines of Lots 135 and 136, PLAZA HILLS PLAT 5, a distance of 342 feet, more or less, to the west right-of-way line of College Drive; thence southerly along the west right-of-way line of College Drive a distance of 254 feet, more or less, to the north right-of-way line of Harbach Boulevard; thence easterly along an easterly extension of the north right-of-way line of Harbach Boulevard a distance of 50 feet, more or less, to a point on the east right-of-way line of College Drive; thence southerly along the east right-of-way line of College Drive a distance of 33 feet, more or less, to the southwest corner of Lot 61, PLAZA HILLS PLAT 5; thence easterly along the south lines of PLAZA HILLS PLAT 5 and PLAZA HILLS PLAT 4, an Official Plat a distance of 1,577.5 feet, more or less, to the northwest corner of PROGRESSO PLAT 10, an Official Plat; thence southerly along the west lines of PROGRESSO PLAT 10 and MOTT PLACE, an Official Plat, a distance of 2,410.5 feet, more or less, to the southwest corner of Lot 25, MOTT PLACE; thence easterly along the south line of Lot 25, MOTT PLACE, a distance of 95 feet, more or less, to the northwest corner of Lot 27, MOTT PLACE; thence southerly along the west line of Lot 27, MOTT PLACE, a distance of 208 feet, more or less, to the north right-of-way line of University Avenue; thence easterly along the north right-of-way line of University Avenue a distance of 8.5 feet; thence south 00º 00' east a distance of 80.0 feet to the south right-of-way line of University Avenue; thence south 90° 00' east along the south right-of-way line of University Avenue a distance of 146.6 feet, to a point 40 feet south of and 21.9 feet east of the NW corner of the NE¼ of the NE¼ of Sec. 3, T. 78N, R. 25W; thence south 0° 00' east a distance of 10 feet; thence north 90° 00' east a distance of 22 feet; thence south 2° 18' east, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 117.5 feet; thence southerly, 40.0 feet west of and parallel to the centerline of 73rd Street, along a curve concave westerly with a radius of 1,100.57 feet and an internal angle of 10° 15', with said curve tangent to the preceding and following courses, a distance of 196.89 feet; thence south 7° 57' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 386 feet; thence south 6° 32' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 220 feet; thence north 83°28' west, perpendicular to the centerline of 73rd Street, a distance of 28 feet; thence south 6° 32' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 300 feet, more or less, to the northeasterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; thence south 6° 32' west, 40 feet west of and parallel to the centerline of 73rd Street, a distance of 150 feet, more or less, to the southwesterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; thence southerly and easterly along the west and south right-of-way lines of 73rd Street a distance of 293 feet, more or less, to the northwest corner of RANCHO GRANDE, an Official Plat; thence southerly along the west line of RANCHO GRANDE a distance of 1,003.7 feet, more or less, to a point which is 415.5 feet north of the southwest corner of RANCHO GRANDE; thence southeasterly a distance of 55 feet, more or less, to a point on the west line of Lot 13, RANCHO GRANDE, which point is 48 feet north of the southwest corner of Lot 13,

RANCHO GRANDE; thence southeasterly a distance of 180 feet, more or less, to the southeast corner of Lot 15, RANCHO GRANDE; thence southeasterly a distance of 320 feet, more or less, to the northeast corner of Lot 25, RANCHO GRANDE; thence southeasterly a distance of 65 feet, more or less, to the northwest corner of Lot 26, RANCHO GRANDE; thence southeasterly to a point on the south line of Lot 29, RANCHO GRANDE, which point is 20 feet east of the southwest corner of Lot 29, RANCHO GRANDE; thence east along the south line of RANCHO GRANDE, and an extension thereof to the east, a distance of 614.4 feet, more or less, to the centerline of Eighth Street; thence northerly along the centerline of Eighth Street a distance of 99.7 feet to the centerline of Center Street; thence easterly along the centerline of Center Street a distance of 977.5 feet to the east line of Lot 44, JANET'S WOODS, an Official Plat; thence easterly along the centerline of Center Street a distance of 1,662.5 feet, more or less, to the point of beginning.

4.02 VOTING PRECINCTS. There are two election precincts, known as Windsor Heights 1 and Windsor Heights 2, within the corporate limits of the City for all purposes under the laws of the United States and the State.

1. Boundaries – Windsor Heights 1. The boundaries of the voting precinct known as Windsor Heights 1 are as follows:

Commencing at the western boundary line and the south right-of-way line of Hickman Road;

thence extending east along the south right-of-way line of Hickman Road;

thence south along the east boundary line of Lot 1 through 13, Wilshire Manor;

thence south along the east boundary line of Lot 401 through 411, Progresso Plat No 9;

thence south along the east boundary line of Lot 254, Progresso Plat No 7;

thence south along the east boundary line of Lot 224, Progresso Plat No 7;

thence south along the east boundary line of Lot 223, Progresso Plat No 6;

thence south along the east boundary line of Lot 194, Progresso Plat No 6;

thence south along the east boundary line of Lot 167 and 168, Progresso Plat No 5;

thence south along the east boundary line of Lot 131, Progresso Plat No 4;

thence south along the east boundary line of Lot 137, Progresso Plat No 4;

thence south along the east boundary line of Lot 1, Mott Plat;

thence south along the east boundary line of Lot 97, Mott Plat;

thence south along the east boundary line of Lot 83 and 84, Mott Plat;

thence south along the east boundary line of Lot 69 and 70, Mott Plat;

thence south along the east boundary line of Lot 55 and 56, Mott Plat;

thence south along the east boundary line of Lot 41 and 42, Mott Plat;

thence west along the centerline of University Avenue;

thence south along the east line of Sec 3-78-25 extending to the centerline of Center Street;

thence west along the centerline of Center Street to the corporate boundary line;

thence following the corporate boundary line south, west, and north to the point of beginning.

2. Boundaries – Windsor Heights 2. The boundaries of the voting precinct known as Windsor Heights 2 are as follows:

Commencing at the west boundary line of Lot 9, Suburban Knolls Plat 2 line extended and the south right-of-way line of Hickman Road;

thence east along the south right-of-way line of Hickman Road to the centerline of 63rd Street;

thence south along the centerline of 63rd Street to the centerline of Center Street;

thence west along the centerline of Center Street;

thence north along the east line of Sec 3-78-25 extending to the centerline of University Avenue;

thence east along the centerline of University Avenue;

thence north along the east boundary line of Lot 41 and 42, Mott Plat;

thence north along the east boundary line of Lot 55 and 56, Mott Plat;

thence north along the east boundary line of Lot 69 and 70, Mott Plat;

thence north along the east boundary line of Lot 83 and 84, Mott Plat;

thence north along the east boundary line of Lot 97, Mott Plat;

thence north along the east boundary line of Lot 1, Mott Plat;

thence north along the east boundary line of Lot 137, Progresso Plat No 4;

thence north along the east boundary line of Lot 131, Progresso Plat No 4;

thence north along the east boundary line of 167 and 168, Progresso Plat No 5 Lot;

thence north along the east boundary line of Lot 194, Progresso Plat No 6;

thence north along the east boundary line of Lot 223, Progresso Plat No 6;

thence north along the east boundary line of Lot 224, Progresso Plat No 7;

thence north along the east boundary line of Lot 254, Progresso Plat No 7;

thence north along the east boundary line of Lot 401 through 411, Progresso Plat No 9;

thence north along the east boundary line of Lot 1 through 13, Wilshire Manor to the point of beginning.

[The next page is 35]

CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Powers and Duties
5.04 General Responsibility of Appointed Officers
5.05 Books and Records
5.06 Transfer to Successor
5.07 Meetings
5.08 Conflict of Interest
5.09 Resignations
5.10 Removal of Appointed Officers and Employees
5.11 Vacancies
5.12 Gifts
5.13 Duty to Defend

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

1. Qualify for Office. All elected officers and the following appointed officers shall qualify for office by taking the prescribed oath and by giving, when required, a bond:

   A. City Administrator.

   B. Clerk.

   C. Deputy City Clerk.

   D. Police Officers.

   E. Fire Chief.

2. The oath shall be taken, and bond provided, after being certified as elected or appointed but not later than 12:00 p.m. 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 or appointed.

3. 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 Windsor Heights as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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 except as allowed in Subsection 5.

(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(1)(a))

5. Insurance Policy in Lieu of Bond. In lieu of a bond, a public officer required to obtain a bond pursuant to Chapter 64 of the *Code of Iowa* may obtain an insurance policy in an amount not less than the amounts required of a bond.

(Code of Iowa, Sec. 64.3)

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

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

5.04 GENERAL RESPONSIBILITY OF APPOINTED OFFICERS. The responsibility of appointed officers is as follows:

1. Council. The Mayor Pro Tem, City Administrator, City Attorney, and City Engineer shall be directly responsible to the Council.

2. City Administrator. All other appointed officers shall be directly responsible to the City Administrator.

3. Appointed Officers. All appointed officers shall be directly responsible for employees of the City under their direct control and supervision.

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

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

5.06 TRANSFER TO SUCCESSOR. Each officer shall transfer to their 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))

5.07 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. Definitions. The following terms are defined for use in this section.

A. "Closed session" means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.

B. "Hybrid meeting" means a meeting involving both remote participation and in-person participation by members.

(Code of Iowa, Sec. 21.8(4)(a))

C. "Open session" means a meeting to which all members of the public have access.

(Code of Iowa, Sec. 21.2(3))

D. "Remote participation" means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.

(Code of Iowa, Sec. 21.8(4)(b))

E. "Reasonable notice" means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if not such office exists, at the building in which the meeting is to be held.

(Code of Iowa, Sec. 21.4(1))

F. "Teleconference participation" means participation using audio conference tools involving multiple participants in at least two separate locations.

(Code of Iowa, Sec. 21.8(4)(c))

G. "Virtual meeting" means a meeting involving real-time interaction using integrated audio, video, and other digital tools, in which participants do not share a physical location.

(Code of Iowa, Sec. 21.8(4)(d))

2. 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)

3. 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)

4. 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)

5. 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)

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

(Code of Iowa, Sec. 21.7)

7. Electronic Meetings. A governmental body shall provide for hybrid meetings, teleconference participation, virtual meetings, remote participation, and other hybrid options for the members of the governmental body to participate in official meetings. A governmental body conducting a meeting pursuant to this subsection shall comply with all of the provisions of Chapter 21 of the *Code of Iowa*.

(Code of Iowa, Sec. 21.8)

5.08 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, volunteer firefighter as defined in Section 85.61 of the *Code of Iowa*, emergency medical care provider as defined in Section 147A.1 of the *Code of Iowa*, 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. This subsection shall not be construed to prohibit nominal stipends, compensation, incentives, or benefits for volunteer firefighters or emergency medical care providers.

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

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(3)(b))

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)(c))

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

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

5. Newspaper. The designation of an official newspaper.

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

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(3)(g))

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

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

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

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

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

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

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

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

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(3)(k))

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

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

5.09 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))

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

(Code of Iowa, Sec. 372.15)

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

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

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

5.13 DUTY TO DEFEND. The City shall defend any of its officers, employees, and agents, whether elected or appointed, and shall save harmless and indemnify the officers and employees against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of their employment or duties. However, the duty to save harmless and indemnify does not apply to awards of punitive damages. The exception for punitive damages does not prohibit the City from purchasing insurance to protect its officers and employees from punitive damages. The duty to save harmless and indemnify does not apply and the City is entitled to restitution by an officer or employee if, in an action commenced by

the City against the officer or employee, it is determined that the conduct of the officer or employee upon which the tort claim or demand was based constituted a willful and wanton act or omission. Any independent or autonomous board or commission of the City having authority to disburse funds for a particular City function without approval of the Council shall similarly defend, save harmless, and indemnify its officers and employees against tort claims or demands. The duty to defend, save harmless, and indemnify shall apply whether or not the City is a party to the action and shall include, but not be limited, cases arising under Title 42 of the *United States Code*. In the event the officer or employee fails to cooperate in the defense against the claim or demand, the City shall have a right of indemnification against that officer or employee.

[The next page is 45]

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

[The next page is 51]

CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

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

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

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

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

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

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

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

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

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

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

(545 IAC 2.5(2))

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

(545 IAC 2.5(3))

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

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

(545 IAC 2.5(4))

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

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

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

(545 IAC 2.5(5))

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

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

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

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

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

4. Annual Statement.

(Code of Iowa, Sec. 24.2A(2))

A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 15, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-10) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. The proposed property tax hearing shall be set on a date on or after March 20 of the budget year immediately preceding the budget year for which the tax is being proposed. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published not less than four or more than 20 days in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.
(Code of Iowa, Sec. 24.2A(4)(b)(2))

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices.

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on a date no later than the date of publication of the notice.

(4) Failure of a newspaper to publish a required notice under this paragraph shall not be considered a failure of a political subdivision to provide required notice under this paragraph if all of the following conditions are met:

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Section 24.2A(2)(b) of the *Code of Iowa*.

b. The political subdivision can demonstrate to the County Auditor that the political subdivision provided sufficient time for the newspaper to publish the notice.

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

6. Notice of Hearing. Following, and not until completion of requirements, of Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less than four or more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of

Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Finance Director, City

Administrator, Clerk, Deputy City Clerk, Mayor, or Mayor Pro Tem, following Council approval, except as provided by Subsection 5 of this section.

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

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

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

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

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

(Code of Iowa, Sec. 384.22)

[The next page is 75]

CHAPTER 9

HOTEL - MOTEL TAX

9.01 Definitions
9.02 Tax Imposed
9.03 Tax Exemption
9.04 Collection and Use

9.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have, for the purpose of this chapter, the following meanings:

1. "Extended stay hotel or motel" means any structure consisting of one or more buildings, with more than five specific dwelling units with provisions for living, eating, contain kitchen facilities for food preparation including, but not limited to, refrigerators, stoves, and ovens, sanitation, separate bathroom and kitchen sink, and sleeping in each unit, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for pay to persons, for a minimum stay of more than 30 days and a maximum stay of 10 months within the dwelling units at the structure, that is approved pursuant to a valid Certificate of Occupancy issued by the Building Official having jurisdiction as having all of the required dwelling unit features, and for which such valid Certificate of Occupancy indicates the specific rooms within the structure that can be used as dwelling units, and that is approved by the Fire Marshal for extended stay temporary residence purposes. Each room shall be a minimum of 275 square feet in area, exclusive of bathroom, closet, or balcony space. Weekly services for each dwelling unit of linen change, towel change, soap change, general cleanup, and a registration lobby staffed on a 12-hour daily basis and 24-hour daily registration and emergency phone number are provided by the management. Each extended stay dwelling unit and facilities are subject to the City's rental inspection outlined in Chapter 156 (*Rental Housing Code*). For the purposes of parking requirements, extended stay hotels or motels will have to meet the multi-family residential parking requirements.

2. "Hotel" means one or more buildings containing 20 or more guest rooms, with such rooms being designed or intended to be used, or which are used as temporary or overnight accommodations for guests in which daily services of linen change, central telephone switchboard, towel change, soap change, general cleanup, and a registration lobby staffed on a 24-hour daily basis are provided by the management. Each room shall be a minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 days per year. Access to all rooms shall be provided through one or more common entrances. Accessory uses are encouraged and permitted accessory uses include restaurants, cocktail lounges, banquet halls, ballrooms, or meeting rooms.

3. "Lodging" means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, extended stay hotel or motel, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. Lodging does not include rooms that are not used for sleeping accommodations.

4. "Motel" means a building or group of buildings containing dwelling units, intended to be used or which are used as temporary or overnight accommodations for guests, in which daily services of linen change, central telephone switchboard, towel change, soap change, general cleanup, and a registration lobby staffed on a 12-hour daily basis and 24-hour daily registration and emergency phone number are provided by the management. Each room shall be a minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 days per year. Each living or sleeping unit shall have an individual entrance from outside the building. Living or sleeping units may be equipped with cooking facilities. Parking close to the entrance of each living or sleeping unit should be made available.

5. "Renting" or "rent" means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration and includes any kind of direct or indirect charge for such lodging or its use.

6. "Sales price" means the consideration for renting of lodging and means the same as the term is defined in Section 423.1 of the *Code of Iowa*.

All other words and phrases used in this chapter have the meaning provided by this Code or, if unavailable, by Section 423.1 of the *Code of Iowa*.

9.02 TAX IMPOSED. There is hereby imposed a seven percent local hotel and motel tax upon the sales price from the renting of lodging within the City.

9.03 TAX EXEMPTION. There is exempted from the provisions of this chapter and from the computation of any amount of tax imposed by Section 9.02, all of the following:

1. The sales price from the renting of lodging which is rented by the same person for a period of more than 31 consecutive days.

2. The sales price of lodging furnished to the guests of a religious institution if the property is exempt under Section 427.1(8) of the *Code of Iowa*, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

3. The sales price from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the City.

4. Pursuant to Section 427.1 of the *Code of Iowa*, the sales price of lodging furnished to the guests of eligible religious institution if the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

5. The sales price of lodging furnished to the guests of a nonprofit lodging provider and the purpose of renting is to provide a place for the friends and family of a hospital patient during a time of medical need of the patient and the length of stay is based upon the needs of the friends, family, or patient. For purposes of this subsection, "nonprofit lodging provider" means a nonprofit entity which is exempt from federal income taxation pursuant to Section 501(c)(3) of the *Internal Revenue Code* that maintains an established facility that provides lodging to friends and family of a hospital patient during a time of medical need of the patient.

(Code of Iowa, Sec. 423A.5)

9.04 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 in the manner required by State law, and the proceeds of such tax shall be used for the purposes stated in Section 423A.7(4) of the *Code of Iowa*, to-wit:

1. The revenue derived from any hotel and motel tax authorized by the *Code of Iowa*, Section 423A.4, shall be used as follows:

A. Each County or City which levies the tax shall spend at least 50 percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including, but not limited to, memorial buildings, halls, and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the County or City for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

B. The remaining revenues may be spent by the City or County which levies the tax for any City or County operations authorized by law as a proper purpose for the expenditure within statutory limitations of city or county revenues derived from ad valorem taxes.

C. Any city or county which levies and collects the local hotel and motel tax authorized by Section 423A.4 of the *Code of Iowa*, may pledge irrevocably an amount of the revenues derived therefrom for each of the years the bonds remain outstanding to the payment of bonds which the City or County may issue for one or more of the purposes set forth in paragraph a. Any revenue pledged to the payment of such bonds may be credited to the spending requirement of Paragraph A.

[The next page is 83]

CHAPTER 10

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
16-10	November 7, 2016	Second Amended and Restated Urban Renewal Area

[The next page is 89]

CHAPTER 11

URBAN REVITALIZATION

11.01 Purpose
11.02 2018 Windsor Heights Urban Revitalization Area
11.03 Designation of Revitalization Area

11.01 PURPOSE. The purpose of this chapter is to designate an area of the City as a revitalization area upon the completion of procedures specified in Chapter 404 of the *Code of Iowa*.

11.02 2018 WINDSOR HEIGHTS URBAN REVITALIZATION AREA. The Council of the City of Windsor Heights, Iowa (the "City") has, by resolution, determined, with respect to an area within the City, and known as the 2018 Windsor Heights Urban Revitalization Area, that:

1. The 2018 Windsor Heights Urban Revitalization Area is an area which is appropriate as an economic development area as defined in Section 403.17 of the *Code of Iowa*.

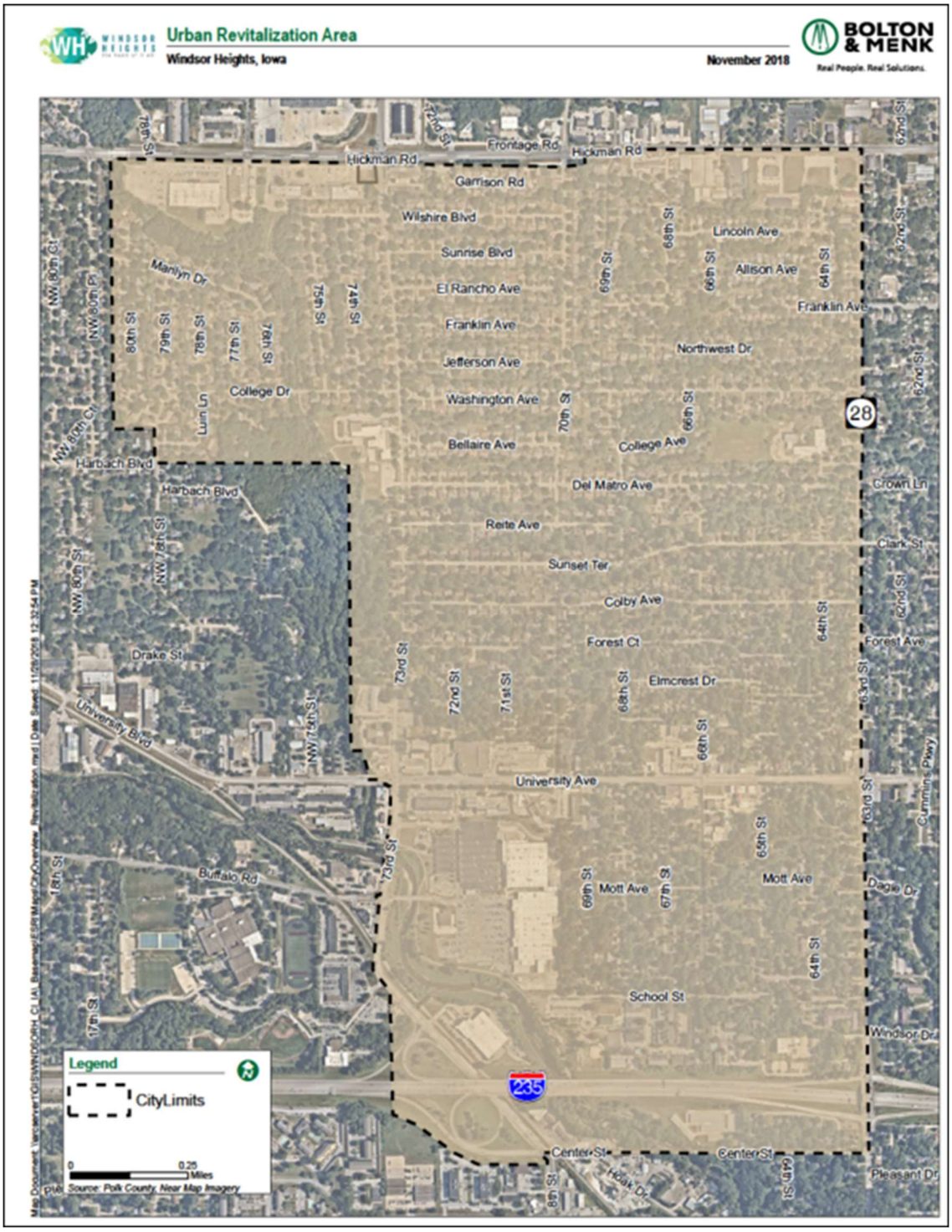
2. The 2018 Windsor Heights Urban Revitalization Area is an area which is appropriate for public improvements related to housing and residential development or construction of housing and residential development, including single, family, and multifamily housing.

3. The economic development and promotion of housing and residential development in the 2018 Windsor Heights Urban Revitalization Area is necessary in the interest of the public welfare of the residents of the City and the 2018 Windsor Heights Urban Revitalization Area substantially meets the criteria set forth in Section 404.1 of the *Code of Iowa*.

11.03 DESIGNATION OF REVITALIZATION AREA. In accordance with the *Code of Iowa* and in consideration of the recitations set out in the preamble hereof, such property lying within the City and being described as follows:

All real property situated within the incorporated municipal limits of the City of Windsor Heights, Polk County, State of Iowa as of November 1, 2018.

is hereby designated as the 2018 Windsor Heights Urban Revitalization Area.



[The next page is 123]

CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments
15.04 Compensation
15.05 Voting

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

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, except for supervisory duties delegated to the City Administrator, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
(Code of Iowa, Sec. 372.14(1))

2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14(2))

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.
(Code of Iowa, Sec. 372.14(1))

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.
(Code of Iowa, Sec. 380.5 and 380.6(2))

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

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

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

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

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

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

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

15.03 APPOINTMENTS.

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

A. Mayor Pro Tem.

2. The following appointments shall be made by the Mayor with Council approval:

A. Police Chief.

15.04 COMPENSATION. Beginning with calendar year 2008, the annual salary of the Mayor is $7,000.00. Each calendar year the Mayor's compensation amount is increased by a percentage equal to the increase in the Midwest Consumer Price Index (CPI) for the calendar year immediately preceding the increase in compensation, rounded to the closest $100.00. If there is no increase in the Midwest CPI in a given year, the Mayor's compensation remains the same in the subsequent year.

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

[The next page is 129]

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties
16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

[The next page is 135]

CHAPTER 17

CITY COUNCIL

17.01 Number and Term of Council
17.02 Powers and Duties
17.03 Exercise of Power
17.04 Council Meetings
17.05 Appointments
17.06 Compensation
17.07 Expectations

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.

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

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

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

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

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

5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

6. Rules of Conduct. The following rules are hereby adopted for the conduct of those attending regular and special meetings of the Council in the Council Chamber in the City Hall:

(Code of Iowa, Sec. 21.7)

A. No person shall be permitted to stand in the Council Chamber during Council sessions between the audience seats and the Council members except the persons addressing the Council, who shall do so from the speaker's stand, and except City officials and employees on City business.

B. No person shall enter the raised area at the east and west ends of the Council table except upon invitation of the Council or a member thereof, and except City officials and employees on City business.

C. Citizen comments shall be allowed during public hearings and during public forum, if provided by the Council. Any person desiring to address the Council may do so when recognized by the presiding officer, but the Council reserves the right to limit the speaker's time and the order in which speakers may address the Council. The public forum is an opportunity to address matters not on the Council agenda. While the Council may take comments into consideration, it is not intended for discussion or dialogue.

D. No person shall be interrupted while addressing the Council except by a member of the Council.

E. No member of the public shall be permitted to sit or lean upon the Council table during sessions of the Council.

F. No person shall use unreasonably loud or abusive language or any other language in the Council Chamber which disrupts or is intended to disrupt the peace, quiet, and good order of a Council meeting.

G. Any person violating any of the foregoing rules shall be guilty of disorderly conduct and disturbing a public assembly and, upon conviction, shall pay a fine of not less than $25.00 or more than $50.00.

H. The Police Chief shall enforce the provisions of this section and upon request, shall provide sufficient officers therefor.

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

1. City Clerk.
2. City Attorney.
3. City Administrator.
4. Finance Director.
5. Public Works Director
6. Planning and Zoning Commission.
7. Zoning Board of Adjustment.

17.06 COMPENSATION. Beginning with calendar year 2008, each member of the Council is paid as compensation the sum of $51.00 for each meeting of the Council which they attend, plus the sum of $584.00 for each calendar quarter. Each calendar year, the compensation amount is increased by a percentage equal to the increase in the Midwest Consumer Price Index (CPI) for the calendar year immediately preceding the increase in compensation. Meeting pay is rounded up to the closest one dollar. Quarterly pay is rounded to the closest $10.00. If there is no increase in the Midwest CPI in a given year, then the Council compensation shall remain the same in the subsequent year.

17.07 EXPECTATIONS. A Council member is expected to be dedicated to the concepts of effective and democratic local government by responsible elected officials. Additionally, the following ethical expectations are set forth. A Council member will:

1. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant;

2. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the other officials and of the general public;

3. Recognize that the chief function of local government at all times is to serve the best interests and greater good of all people;

4. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service;

5. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern decisions, pertaining to appointments and pay adjustments;

6. Keep confidential all employee records and any other information that is not yet available to the general public;

7. Seek no personal favor and seek no favors for those with whom the Council member has a personal relationship.

[The next page is 145]

CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Other Publications
18.06 Authentication
18.07 Certification
18.08 Records
18.09 Attendance at Meetings
18.10 Licenses and Permits
18.11 Notification of Appointments
18.12 Elections
18.13 City Seal
18.14 City Funds

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote, upon recommendation by the City Administrator, a Clerk pursuant to a term as shall be established by resolution by the Council and has the duties, powers, and functions prescribed in this chapter, by State law, and other ordinances of the City. The Council shall specify by resolution the compensation to be paid for such services.

(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, and the law.

18.03 PUBLICATION OF MINUTES. Within 15 days following a regular or special meeting of the Council, the Clerk shall cause the minutes of the proceedings of the Council, including the total expenditure from each City fund, to be delivered to a newspaper of general circulation in the City for publication. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

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

except that ordinances and amendments may be published by posting in the following places:

Windsor Heights City Hall
1145 66th Street Suite 1
Windsor Heights, IA

Windsor Heights Public Safety Building
1133 66th Street
Windsor Heights, Iowa

Hy-Vee Food Store
7101 University Avenue
Windsor Heights, Iowa

City website and social media platforms

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than 10 days after the first date of posting. Unauthorized removal of the posted ordinance or amendment prior to the completion of the 10 days shall not affect the validity of said ordinance or amendment. The Clerk shall note the first date of such posting on the official copy of the ordinance and in the official ordinance book immediately following the ordinance.

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words "WINDSOR HEIGHTS, IOWA" and around the margin of which are the words "CITY SEAL."

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

Code of Iowa, Sec. 372.13(4)

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.

2. Record Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.

3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

4. Special Assessments. Keep a separate account of all money received from special assessments.

5. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

[The next page is 153]

CHAPTER 19

FINANCE DIRECTOR

19.01 Appointment
19.02 Compensation
19.03 Duties of Finance Director

19.01 APPOINTMENT. The Council shall appoint by majority vote, upon recommendation by the City Administrator, the Finance Director.

19.02 COMPENSATION. The Finance Director is paid such compensation as specified by resolution of the Council.

19.03 DUTIES OF FINANCE DIRECTOR. The duties of the Finance Director are as follows:

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law and Council direction.

2. Record of Fund. Keep the record of each fund separate.

3. Record Receipts. Keep an accurate record of all money or securities received by the Finance Director on behalf of the City and specify the date, from whom, and for what purpose received.

4. Record Disbursements. Keep an accurate account of all disbursements, money, or property, specifying date, to whom, and from what fund paid.

5. Special Assessments. Keep a separate account of all money received by the Finance Director from special assessments.

6. Deposit Funds. Upon receipt of monies to be held in the Finance Director's custody and belonging to the City, deposit the same in depositories selected by the Council.

7. Reconciliation. Reconcile depository statements with the Finance Director's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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

10. Reconciliation with Clerk. Reconcile the Finance Director's books with the Clerk's every month.

[The next page is 159]

CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation
20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents
20.09 Representation of City Employees

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

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

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

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

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

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

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

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

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

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor, Council as a whole, City Administrator, Department Heads, inclusive of Clerk.

(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 that may be required for the use of the City.

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

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

(Code of Iowa, Sec. 670.8)

[The next page is 165]

CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment and Compensation
21.02 Term
21.03 Chief Administrative Officer
21.04 Combined Offices
21.05 Powers and Duties

21.01 APPOINTMENT AND COMPENSATION. The City Administrator shall be appointed by majority vote of the Council and receive such compensation as shall be established by resolution.

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

21.02 TERM. The City Administrator shall serve pursuant to a term as shall be established by resolution of the Council.

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

21.03 CHIEF ADMINISTRATIVE OFFICER. The City Administrator shall be the Chief Administrative Officer of the City.

21.04 COMBINED OFFICES. The Council may, by resolution passed by a majority of the entire Council, combine the office of City Administrator with the offices of Clerk, Building Official, or Zoning Administrator, and so long as the duties of any of those offices are performed by the City Administrator, there shall be no appointment to those offices.

21.05 POWERS AND DUTIES. The City Administrator shall have the following powers and duties:

1. Administration. Supervise and direct the administration of the City government.

2. Supervise Officers. Supervise and direct the official conduct of all appointed officers of the City, except the Mayor Pro Tem and City Attorney.

3. Personnel. Appoint, promote, reassign, reclassify, discipline, demote, and discharge all employees in compliance with law and ordinance.

4. Compensation of Employees. Fix the compensation of all employees appointed by them, subject to the approval of the Council.

5. Investigation. Investigate, summarily and without notice, the conduct and affairs of any department, agency, officer, or employee of the City.

6. Law Enforcement. Supervise the enforcement and execution of all laws and ordinances within the City.

7. Contracts. Supervise the performance of all contracts for work to be done for the City.

8. Purchasing. Supervise the purchase and receipt of all materials, services, and supplies for and on behalf of the City.

9. Public Works. Supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements, and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for capital improvements.

10. Attend Meetings. Attend all meetings of the Council and City administrative agencies.

11. Recommendations. Recommend to the Council any measures as are necessary or expedient for the good government and general welfare of the City.

12. Cooperation. Cooperate with any administrative agency of the City.

13. Accounting. Supervise the Finance Director and ensure that the business affairs of the City are conducted by modern and efficient accounting methods and cause accurate records to be kept.

14. Budget. Prepare and submit to the Council annually the required budgets.

15. Financial Reports. Submit a written, itemized financial report to the Council not later than the fifteenth day of each month, showing receipts, disbursements, and investments for the preceding month.

16. Licenses. Provide for the issuance, suspension, and revocation of all licenses and permits authorized or required by law or ordinance.

17. Oaths. Administer oaths.

18. Powers Assumed. Assume the powers and duties of the Clerk and Zoning Administrator.

19. Other. Exercise such other powers and perform such other duties as may be directed by the Council.

[The next page is 171]

CHAPTER 22

PUBLIC WORKS DIRECTOR

22.01 Public Works Director Appointed
22.02 Duties of Public Works Director
22.03 Water Service
22.04 Removal of Trees

22.01 PUBLIC WORKS DIRECTOR APPOINTED. The Public Works Director shall be appointed and discharged by the City Administrator, with approval of the Council.

22.02 DUTIES OF PUBLIC WORKS DIRECTOR. The Public Works Director shall be responsible for the direction and control of all operations and affairs of the Public Works Department and shall be vested with all powers and duties for managing public works in the City, including maintenance of public property in the City. The Public Works Director's responsibilities include, but are not limited to, the following:

1. Supervise the installation of water service pipes and their connection to the water main and enforce regulations pertaining to water services.
2. Inspect sidewalks and driveways.
3. Supervise the upkeep and repair of streets, their markings, and traffic signs.
4. Maintain the City's property, park facilities, sewer system, and water system.
5. Perform such other duties as may be directed by the City Administrator.

22.03 WATER SERVICE. This chapter applies to all replacements of existing water service pipes as well as to new pipes. The Public Works Director shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency, the Public Works Director may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

22.04 REMOVAL OF TREES. The Public Works Director shall remove, on the order of the Council, any tree on the streets of the City which interferes with the making of improvements or with travel thereon. The Public Works Director shall, additionally, remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

(Code of Iowa, Sec. 364.12(2)(c) and 372.13(4))

[The next page is 177]

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies
23.04 Compensation
23.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 and 392.1)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be four or five years at the Mayor's discretion to ensure the terms of not more than one-third 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 remainder 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 on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such

improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivisions or re-subdivisions of land 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. 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 that are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

7. 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)

8. 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 and disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

[The next page is 235]

CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Police Officer Qualifications
30.04 Required Training
30.05 Oath
30.06 Compensation
30.07 Police Chief Appointed
30.08 Powers and Duties of Police Chief
30.09 Departmental Rules
30.10 Summoning Aid
30.11 Taking Weapons
30.12 Unbiased Policing Policy

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

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

30.03 POLICE 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 and the City.

(Code of Iowa, Sec. 80B.11)

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

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

30.05 OATH. Every police officer, before taking the position, shall qualify for office by taking the oath presented by this Code.

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

30.07 POLICE CHIEF APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. A super majority vote of the Council is needed for the removal of the Police Chief. The Police Chief shall select the other members of the department, subject to the approval of the City Administrator.

(Code of Iowa, Sec. 372.4)

30.08 POWERS AND DUTIES OF POLICE CHIEF. The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the Police Chief by law or ordinance.

2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.

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, Council, or City Administrator.

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

11. Other Duties. Have such other duties as lawfully assigned.

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

30.12 UNBIASED POLICING POLICY. The Police Department shall be committed to the unbiased, equitable treatment of all persons. The Police Department shall ensure all employees observe, respect, and protect the constitutional rights of all persons.

1. Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. "Biased policing" means differential treatment in the performance of law enforcement duties or delivery of police services towards a person or classes of persons when one or more individual demographics were a motivating factor in the action taken.

B. "Employee" means any member of the Police Department, including volunteers.

C. "Fair and impartial treatment" means the belief that persons, irrespective of individual demographics, shall be treated in the same basic manner under the same or similar circumstances. Reasonable concessions and accommodations may be made, when dealing with individuals with physical or mental disabilities, injury, illness, or similar conditions, or when information about them necessitates different treatment.

D. "Individual demographics" means personal characteristics to include, but not be limited to, race, ethnicity, national origin, religion, age, gender, gender identity or expression, sexual orientation, socioeconomic status, disability, immigration status, housing status, occupation, language fluency, cultural group, political status, or any other identifiable characteristics.

E. "Racial profiling" means the selection of individuals based solely on a common trait of a group. This includes, and is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, disability, political affiliation, national origin, or cultural group.

2. Prohibitions.

A. No employee shall engage in bias-based policing or profiling while providing police services.

B. Bias based profiling shall not constitute probable cause or a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual, the investigatory stop of a motor vehicle, custody or arrest, search or frisk, field contact, or seizure and forfeiture of property.

C. Employees shall not use any terms, language, or remarks that are derogatory, tend to belittle, show contempt for, or defame any individual demographic, except when necessary to include such terms, language, or remarks used by another for the preparation of an official report or testimony.

D. Employees shall not take any law enforcement action based on information from members of the public or other employees they know, or reasonably should know, under all circumstances present is the product of, or motivated by bias-based profiling unless the circumstances indicate that harm is imminent or a crime has been committed.

E. Discriminatory pretextual stops are prohibited under State and federal law and are prohibited by this subchapter.

3. Complaint Process.

A. Any person claiming to be aggrieved or to have witnessed bias based profiling may file a complaint. Further, no person shall be discouraged, intimidated, or coerced from filing such a complaint, nor shall any person be discriminated or retaliated against because they have filed a complaint with the Police Department.

B. Any employee observing bias-based profiling by another employee shall immediately direct the employee displaying the behavior to stop or immediately report the incident to a supervisor. Any employee who stops or reports any practice in violation of this subchapter shall not be discriminated against in any manner for opposing such conduct, testifying, assisting, or

participating in any investigation, proceeding, or hearing arising out of a violation of this subchapter.

C. Employee complaints shall be filed with the employee's supervisor or the Police Chief. Any external complaints shall be filed with the Police Department or the City Administrator's office.

D. Bias-based profiling complaints received by the Police Department or City Administrator shall be investigated as outlined in Department Policy. When necessary, an alternate investigator may be assigned by the Police Chief.

4. Training. All police employees shall receive annual training on the prevention of bias-based policing and profiling that may include, but are not limited to:

A. Ethics;

B. De-escalation;

C. Motor vehicle and Terry stops;

D. Citizen contacts;

E. Probable cause and reasonable suspicion;

F. Diversity;

G. Implicit bias; and

H. Racial profiling.

5. Annual Review. The Police Chief shall review this chapter at least annually. The City Administrator shall certify this review to the Council.

[The next page is 243]

CHAPTER 31

ALARM SYSTEMS

31.01 Definitions
31.02 Purpose
31.03 Enforcement and Administration
31.04 Nonliability of City
31.05 Penalty

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

1. "Alarm company" means a business providing among its services alarm sales, installation, service, monitoring, or billing of alarm users or the service of receiving on a continuous basis, through trained employees, emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the emergency dispatch center or such other places as directed by the City.

2. "Alarm system" means any device used to detect or prevent intrusion, criminal activity, or other such emergency situation which, when activated, causes notification to be made directly or indirectly to the Police Department or Fire Department, or any such device or system designed primarily for the purpose of giving an audible or visual signal of an attempted intrusion, criminal activity, fire, or other such emergency. An alarm system, for the purpose of this chapter, does not include an alarm installed on a motor vehicle.

3. "Alarm system operator" means an alarm user or other person using an alarm system.

4. "Alarm user" means the person, firm, partnership, association, corporation, company, or organization of any kind in control of any building who owns, leases, installs, or contracts for, or otherwise obtains an alarm system and thereafter contracts with or hires an alarm company to monitor or service the alarm device, or who owns or operates an alarm system.

5. "Building" means any single-family housing, multi-family dwelling, apartment, commercial business, school, church, religious facility, structure, or place within the City.

6. "Chief" means the Police Chief or Fire Chief, or designated representative, who is authorized by the Chief to exercise any power or duty conferred to the Chief under this chapter.

7. "Coordinator" means an individual designated to enforce the provisions of this chapter.

8. "False alarm" means any alarm signal that is activated by error or mistake, system malfunction, malicious misuse, or on purpose, when an emergency situation requiring a response did not exist at or about the time of the response. The burden of proving that such an alarm signal was not a false alarm shall be on the alarm user.

A. Error or Mistake. Any action by an alarm user, or any action by an agent or employee of the alarm user, or any other person in the building, which results in the activation of the alarm system when no emergency exists, and no attempt to cancel the alarm by contacting the 911 call center was made.

B. System Malfunction. Any activation of an alarm system caused by a mechanical malfunction, flaw in the design, installation, or maintenance of the alarm system. This does not include any activation caused by extraordinary violent conditions of nature.

C. Malicious Misuse. Any intentional activation of an alarm system when no emergency exists.

D. Non-Emergency Activation. Any system activation that did not constitute an emergency; however, the system operated properly based on conditions or human actions at that time. (Examples include smoke detector activation from burned food, children activating a pull station, unintentional security system activation with prompt follow up to the 911 call center, or extraordinary violent conditions of nature.)

9. "Monitoring" means the process by which an alarm company or its designated alarm answering service receives signals from an alarm system and relays an alarm dispatch request to the emergency dispatch center, or other places as directed by the City, for the purpose of summoning police or fire personnel to the building.

31.02 PURPOSE. It is the finding of the Council that false alarms seriously undermine the morale and safety of Fire and Police Departments personnel as well as unnecessarily expose to danger the citizens of the City who encounter emergency vehicles responding to false alarms, result in a waste of City resources, and result in citizens ignoring alarm system signals. The purpose of this chapter is to provide regulations applicable to alarm systems and to encourage the effective use of alarm systems. The most significant desired result of this chapter is to enhance public safety and more efficiently and safely use City emergency response resources by reducing the number of false alarms received.

31.03 ENFORCEMENT AND ADMINISTRATION.

1. Grace Period After Installation of an Alarm System.

A. Upon the installation date of a new or replacement alarm system, a grace period of 14 calendar days will be allowed for the alarm user and alarm system operators to become familiar with the operations of the alarm system and to make corrections to the operation of the alarm system. Service charges for false alarms shall be waived during the grace period, provided the number of false alarms during the grace period is not excessive. An excessive number of false alarms is:

(1) Equal to three or more false alarms in one calendar day or 24-hour period.

(2) Equal to six or more false alarms in the first 14 calendar days since installation of the alarm system.

B. The appropriate Chief, or Chief's designated representative, may waive the service charge fee for an excessive number of false alarms during the grace period, at their discretion, due to extenuating circumstances as determined on a case-by-case review.

2. Excessive False Alarms; Service Charge Fees.

A. Because a false alarm for security, intrusion, robbery, and other non-fire causes usually requires from one to three police officers to respond in

individual vehicular units, depending on the type of alarm, and a false alarm for fire suppression or other firefighting incidents usually requires multiple firefighters from the Fire Department to respond in multiple and specialized firefighting equipment, depending on the type of alarm, the City shall assess a service charge fee to any alarm user that generates an unnecessary number of false alarm responses during a calendar year. The alarm user shall pay the City the assessed false alarm fee within 20 days of the date an invoice is given to the alarm user for any false alarm created by the alarm user's alarm system in accordance with the Fee Schedule.

B. After the second false alarm, the alarm user shall receive a written notice from the Chief. The notice shall require that by a specified date the alarm user shall have their alarm system inspected by an alarm company and alarm user shall review operational procedures with the alarm system operator and any other individuals having access to the use and operation of the alarm system. Notice or billing from the City to any alarm user shall be deemed to have been given or rendered on the date such notice or billing is deposited in the U.S. Mail, first class postage, addressed to the alarm user at the address shown for the alarm user. The alarm user shall notify the applicable Chief, in writing, after the inspection by the alarm company has been completed and shall provide to the Chief a copy of any report of service, repair, or inspection of the alarm system given by the alarm company. An alarm company providing an inspection or repair of an alarm system shall notify the Chief in advance of such service. The alarm company shall be assessed a fee set in the Fee Schedule by the City when the Police Department or Fire Department respond to a false alarm and it is determined by the City that an on-site employee of the alarm company directly caused the false alarm. In such a circumstance, the false alarm shall not count against the alarm user.

3. Appeal Process for False Alarm Service Charges. An alarm user assessed a false alarm fee may appeal the false alarm fee in writing to the Public Safety Committee. The filing of an appeal with the Public Safety Committee stays the assessment of the false alarm fee until the Public Safety Committee makes a final decision.

A. The alarm user shall file a written appeal to the Public Safety Committee by setting forth the reasons for the appeal within 10 days after receipt of the false alarm fee invoice. The Public Safety Committee will review relevant information, including conditions of nature, for the date and time of the occurrence of the false alarm. The Public Safety Committee may reverse the assessment of the false alarm fee only if there was no false alarm or the false alarm was not contributed to by the acts or omissions of the alarm user or the alarm user's family, pets, guests, employees, or invitees.

B. The Public Safety Committee shall notify the alarm user, the alarm company, and the coordinator of its decision within five working days. The decision of the Public Safety Committee is final as to administrative remedies of the City.

31.04 NONLIABILITY OF CITY. The City shall not be liable for any defects in the operation of any alarm system, for any failure or neglect to respond appropriately upon receipt of an alarm from such a source, for any failure or neglect of any person in connection with the installation, operation, disconnection, or removal of equipment, the transmission of alarm signals, or the relaying of such signals or messages.

31.05 PENALTY. Unless another penalty is expressly provided by this chapter for any particular provision or section, any person violating any provision of this chapter or any rule or regulation adopted herein by reference shall, upon conviction, be subject to the standard penalty as stated in the Fee Schedule.

[The next page is 279]

CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Fire Chief Appointed
35.04 Duties of Fire Chief
35.05 Department Members
35.06 Duties of Members
35.07 Fires Outside City Limits
35.08 Authority to Cite Violations

35.01 ESTABLISHMENT AND PURPOSE. A 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, to provide out-of-hospital emergency medical services, to respond to and mitigate hazardous materials incidents, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

35.02 ORGANIZATION. The Fire Department shall consist of the Fire Chief and such other officers and personnel as may be authorized by the Council.

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

35.03 FIRE CHIEF APPOINTED. The Fire Chief shall be appointed and discharged by the City Administrator, with approval of the Council.

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

35.04 DUTIES OF FIRE CHIEF. The Fire Chief shall have the following powers and duties:

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

1. Personnel. Appoint, assign, reassign, promote, reclassify, discipline, demote, and discharge all personnel of the Fire Department in compliance with law and ordinance.

2. Set Compensation. Fix the compensation of all personnel appointed by the Fire Chief, subject to the approval of the Council.

3. Management. Be responsible for the direction and control of all operations and affairs of the Fire Department; be vested with all powers, rights, and privileges attending the responsibility of management; and exercise the same, where appropriate, by rules, directives, or other orders which shall be binding on all personnel of the Fire Department when duly promulgated.

4. Organization. Determine and establish the form of organization of the Fire Department; create subordinate organizational subdivisions or sections within the Fire Department; and determine and define the functions, duties, and responsibilities of each.

5. Classification Plan. Determine and establish such classifications or ranks, grades, and positions for personnel within the Fire Department as the Fire Chief may deem appropriate as provided in the Department Rules and Regulations; prescribe the uniform and uniform insignia for all ranks; define and designate the authority, responsibility, duties, assignments, rights, and privileges for each such rank, grade, or position; and establish the order of succession to positions of command within the Fire Department.

6. Employee Performance. Regulate attendance, conduct, training, discipline, and procedures for all personnel of the Fire Department; make all other rules, regulations, and orders as may be deemed necessary for the management of the Fire Department and its personnel; and institute a system of periodic performance evaluation for all members of the Fire Department.

7. Property. Acquire, hold, control, and maintain all property, equipment, facilities, and premises necessary to the operation of the Fire Department; and dispose of the same in such manner as may be authorized by law.

8. Records. Establish and modify systems for the reception, processing, and maintenance of reports and records of all occurrences, or alleged occurrences of fire, arson, and *Fire Code* violations in the City, and of the administration, management, and operations of the Fire Department; and establish procedures, not inconsistent with law, for the safekeeping, photocopying, and destruction of records of the Fire Department.

9. Reports. Compile annually an analytical report based upon the records maintained by the Fire Department and summarizing the activities of the Fire Department for the year. The report shall be filed with the Council and may contain recommendations for the improvement of the Fire Department.

10. Fire Prevention. Enforce all laws and ordinances regulating fire prevention requirements with the City.

11. Right of Entry. Have the power of entry into any building or premises within the Fire Chief's jurisdiction for the purpose of making such investigation or inspection which, under law or ordinance, the Fire Chief may consider necessary to be made.

12. Fire Hazards. Make such recommendations to owners, occupants, managers, or caretakers of buildings for the purposes of eliminating fire hazards as are provided for by law or ordinance.

13. State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid such Marshal in the performance of the Marshal's duties by investigating, preventing, and reporting data pertaining to fires.

14. Building Plans. Review all commercial building and remodeling plans for compliance with appropriate fire codes; file a report of findings to appropriate departments or agencies.

15. Water Supply. Review and monitor the City water system as it relates to fire protection, making recommendations to the Public Works Director regarding repairs, modifications, or additions to said system as required to maintain or improve fire protection.

16. Emergency Management. Serve in capacity of Emergency Management Officer for the City; coordinate activities with the County Emergency Management Agency; write and update a disaster plan for the City; develop and maintain the emergency operations center as a functional system capable of operating effectively in a disaster mode; seek available State and federal moneys to improve disaster response capabilities; assure that all City personnel are aware of their duties in a disaster situation; conduct at least one disaster drill each year to test response capabilities; and perform other tasks assigned by the Council and the County Emergency Management Agency.

17. Council Meetings. Attend all Council meetings unless excused by the City Administrator.

18. 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 Fire Department's duties.

(Code of Iowa, Sec. 102.2)

19. 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)

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

(Code of Iowa, Sec. 102.3)

35.05 DEPARTMENT MEMBERS. Persons 18 years of age or older who meet established entrance requirements for the Fire Department shall be appointed to serve as paid-on-call firefighters, fire medics, and staff specialists.

35.06 DUTIES OF MEMBERS. When called by the Fire Chief or the dispatcher, all members shall report for duty immediately in the manner directed by the Chief. They shall be subject to call at any time. They shall obey strictly the commands of any other officer who has been appointed by the Chief to be in command. Members shall follow all rules and regulations established for the Fire Department.

35.07 FIRES OUTSIDE CITY LIMITS. The Fire Department shall answer calls to fires and other emergencies outside the City limits within the limits established by Mutual Aid and Automatic Aid agreements.

35.08 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of Chapter 10A, Subchapter V, Part 2 of the *Code of Iowa*, may issue citations in accordance with Chapter 805 of the *Code of Iowa*, for violations of Chapter 10A, Subchapter V, Part 2 of the *Code of Iowa* or a violation of a local fire safety code.

(Code of Iowa, Sec. 100.41)

[The next page is 287]

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs
36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.

2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.

3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss.

4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

36.05 NOTIFICATIONS.

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

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

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

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

[The next page is 323]

CHAPTER 40

PUBLIC OFFENSES

40.01 PUBLIC PEACE
40.02 PUBLIC HEALTH AND SAFETY
40.03 PUBLIC AND PRIVATE PROPERTY
40.04 DRUGS AND CONTROLLED SUBSTANCES
40.05 WEAPONS
40.06 ALCOHOL CONSUMPTION AND INTOXICATION
40.07 MINORS
40.08 PARK REGULATIONS
40.09 OTHER PUBLIC OFFENSES ENFORCEMENT PROVISIONS

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.01

PUBLIC PEACE

40.01.01 Assault
40.01.02 Harassment
40.01.03 Disorderly Conduct
40.01.04 Failure to Disperse
40.01.05 Disorderly Houses; Social Hosts
40.01.06 Public Exposure

40.01.01 ASSAULT. No person shall, without justification, commit assault defined as follows:

1. Types of Assault.

   A. 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(2)(a))

   B. 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)(b))

   C. Intentionally points any firearm toward another or displays in a threating manner any dangerous weapon toward another.
   (Code of Iowa, Sec. 708.1(2)(c))

2. Exceptions. An act described as assault in Subsection 1 shall not be an assault under the following circumstances:

   A. If the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social, or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or

activity and does not create an unreasonable risk of serious injury or breach of the peace.

(Code of Iowa, Sec. 708.1(3)(a))

B. If the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation, that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1(3)(b))

40.01.02 HARASSMENT.

1. Definition. The following term is defined for use in this section.

A. "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.

(Code of Iowa, Sec. 708.7(8)(b))

2. Harassment. No person shall commit harassment. 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(1)(a)(1))

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

(Code of Iowa, Sec. 708.7(1)(a)(2))

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

(Code of Iowa, Sec. 708.7(1)(a)(3))

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 act did not occur.

(Code of Iowa, Sec. 708.7(1)(a)(4))

3. Act of Harassment. 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.

(Code of Iowa, Sec. 708.7(1)(b))

4. Exceptions. The following do not constitute harassment.

A. A photograph or film involving voluntary exposure by a person in public or commercial settings.

(Code of Iowa, Sec. 708.7(6)(a))

B. Disclosures made in the public interest, including but not limited to, the reporting of unlawful conduct, disclosures by law enforcement, news reporting, legal proceeding disclosures, or medical treatment disclosures.

(Code of Iowa, Sec. 708.7(6)(b))

C. Disclosures by an interactive computer service of information provided by another information content provider, as those terms are defined in 47 U.S.C. §230.

(Code of Iowa, Sec. 780.7(6)(c))

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

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

(Code of Iowa, Sec. 723.4(1)(a))

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

(Code of Iowa, Sec. 723.4(1)(b))

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

(Code of Iowa, Sec. 723.4(1)(c))

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

(Code of Iowa, Sec. 723.4(1)(d))

5. False Report of Catastrophe. By words or action, initiates or circulates 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(1)(e))

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

(Code of Iowa, Sec. 723.4(1)(f))

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

(Code of Iowa, Sec. 723.4(1)(f)(2)(a))

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

(Code of Iowa, Sec. 723.4(1)(f)(2)(b))

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

(Code of Iowa, Sec. 723.4(1)(f)(2)(c))

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

(Code of Iowa, Sec. 723.4(1)(f)(2)(d))

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

(Code of Iowa, Sec. 723.4(1)(f)(2)(e))

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

(Code of Iowa, Sec. 723.4(1)(f)(2)(f))

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

(Code of Iowa, Sec. 723.5)

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

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

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

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

(Code of Iowa, Sec. 723.5(2))

40.01.04 FAILURE TO DISPERSE. A police 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. Any person within hearing distance of such command, who refuses to obey, commits a simple misdemeanor.

(Code of Iowa, Sec. 723.3)

40.01.05 DISORDERLY HOUSES; SOCIAL HOSTS.

1. Definition.

A. Any room, house, building, structure, place, or premises wherein or upon which any unlawful or illegal acts are committed in violation of local, State, or federal law, or which is kept in such a manner as to disturb, annoy, or scandalize the public generally or persons within a particular neighborhood is hereby declared to be a disorderly house.

B. Any room, house, building, structure, place, or premises which is kept, maintained, used, erected, established, or run for any of the following purposes (as the same are defined in the *Code of Iowa*) is hereby declared to be a

disorderly house; provided, however, this shall not be construed to be conclusive, limiting, or restrictive:

(1) Prostitution, pandering, or public indecency;

(2) Unlawful manufacture, cultivation, growth, production, processing, sale, distribution, storage, use, or possession for any unlawful manufacture or use of any controlled substance;

(3) Gambling or the keeping of gambling devices;

(4) Acts of disturbing the peace or disorderly conduct, as those terms are described in Section 40.01.03 of this subchapter;

(5) The reception, retention, or disposition of stolen moveable property of another;

(6) Clairvoyance, fortune telling, or divination;

(7) Consumption of alcohol by any person under the age of 21.[†]

2. Disorderly Houses Prohibited. It is unlawful for the owner, lessee, renter, proprietor, or any other person to keep, run, or maintain a disorderly house, or to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act or to knowingly make, cause or permit, or suffer to be made therein any loud or improper noise to the annoyance or disturbance of any person or neighborhood. A disorderly house is declared to be a public nuisance.

3. Visiting Disorderly House Prohibited. It is unlawful for any person to become or remain an inmate of any disorderly house, or to frequent or visit with knowledge of, and participation in, the illegal activities occurring therein.

4. Social Hosts. The purpose of this subsection is to protect the public interest, welfare, health, and safety within the City by prohibiting the services to and consumption of alcoholic beverages by persons under the age of 21 at premises located in the City. The Council finds that the occurrence of social gatherings at premises where alcoholic beverages are served to or consumed by persons under the age of 21 is harmful to such persons themselves and a threat to public welfare, health, and safety. The Council further finds that persons under the age of 21 often obtain alcoholic beverages at such gatherings and that persons who are in control of such premises know or have reason to know of such service or consumption and will be more likely to ensure that alcoholic beverages are neither served to nor consumed by persons under the age of 21 at these gatherings. Based on these findings, the Council has deemed it necessary to enact the following regulations:

A. Definitions. The following words, terms, and phrases, when used in this subsection, have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

(1) "Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by volume, including alcoholic liquor, wine, and beer.

[†] **EDITOR'S NOTE:** See Subsection 4 for further provisions regarding consumption of alcoholic beverages by minors.

(2) "Emergency responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.

(3) "Enforcement services" means the salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering, or party and administrative costs attributable to the incident and includes the actual costs for medical treatment for any injured emergency responder and the costs of repairing any damage to equipment or vehicles.

(4) "Event, gathering, or party" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity where an underage person has consumed or possessed an alcoholic beverage.

(5) "Parent" means any person having legal custody of a juvenile as:

a. A natural parent, adoptive parent, or stepparent;

b. A legal guardian; or

c. A person to whom legal custody has been given by order of the court.

(6) "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

(7) "Social host" means any person who aids, conducts, allows, entertains, organizes, supervises, controls, or permits an event, gathering, or party. This includes, but is not limited to:

a. The person who owns, rents, leases, or otherwise has control of the premises where the event, gathering, or party takes place;

b. The person in charge of the premises; or

c. The person who organized the event. If the social host is a juvenile, then the parents of that juvenile will be jointly and severally liable for any violation of this subsection.

(8) "Underage person" means any individual under the age of 21.

B. Prohibited Acts. It is unlawful for any social host to host an event, gathering, or party on premises when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage, or possessed an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the

underage person. A social host who hosts such an event, gathering, or party does not have to be present at the time the prohibited act occurs.

C. Exceptions. This Subsection 4 does not apply to conduct solely between an underage person and their parents while present in the parents' household, to legally protected religious observances, and to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

D. Enforcement. The provisions of this subsection shall be enforced by officers of the Police Department. The Police Department shall have primary but not exclusive enforcement responsibility for this subsection.

E. Violations. Violations of this Subsection 4 are declared to be municipal infractions pursuant to Chapter 3.

40.01.06 PUBLIC EXPOSURE. Except as hereinafter provided, no person shall expose those parts of their body hereinafter listed to another in any public place or in any place where such exposure is seen by another person located in any public place:

1. 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 exposures occur incident to the prescribed use of those facilities. This section does not apply to exposures occurring in live stage places, live theatrical performances, or live dance performances conducted in a theatre, concert hall, or similar establishment which is primarily devoted to theatrical performances.

[The next page is 335]

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.02

PUBLIC HEALTH AND SAFETY

40.02.01 Distributing Dangerous Substances
40.02.02 False Reports to or Communications with Public Safety Entities
40.02.03 Providing False Identification Information
40.02.04 Refusing to Assist Officer
40.02.05 Harassment of Public Officers and Employees
40.02.06 Interference with Official Acts
40.02.07 Removal of an Officer's Communication or Control Device
40.02.08 Abandoned or Unattended Refrigerators
40.02.09 Antenna and Radio Wires
40.02.10 Urinating and Defecating
40.02.11 Fireworks
40.02.12 Littering Prohibited
40.02.13 Smoking and Tobacco Use Prohibited at City Facilities
40.02.14 Failure to Assist

40.02.01 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)

40.02.02 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 they are 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.

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

40.02.10 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.

40.02.11 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:

A. "Consumer fireworks" means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association ("APA") Standard 87-1:

(1) First-class consumer fireworks:

a. Aerial shell kits and reloadable tubes;

b. Chasers;

c. Helicopters and aerial spinners;

d. Firecrackers;

e. Mine and shell devices;

f. Missile-type rockets;

g. Roman candles;

h. Sky rockets and bottle rockets;

i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.

(2) Second-class consumer fireworks:

a. Cone fountains;

b. Cylindrical fountains;

c. Flitter sparklers;

d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;

e. Ground spinners;

f. Illuminating torches;

g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;

h. Wheels;

i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

B. "Display fireworks" includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.

C. "Novelties" includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the State Fairgrounds by the State Fair Board, at incorporated county fairs, or at district fairs receiving State aid. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

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

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

3. Consumer Fireworks.

A. Except between 9:00 a.m. and 10:00 p.m. on July 3 (or 9:00 a.m. and 11:00 p.m. if July 3 falls on a Saturday or Sunday), and except between 9:00 a.m. and 11:00 p.m. on July 4, and except between 9:00 a.m. and 11:59 p.m. on December 31 and except between 12:00 a.m. and 12:30 a.m. on January 1, it shall be unlawful for any person to use or explode any explosive, explosive material, First-Class Consumer Fireworks, or Second-Class Consumer Fireworks within the corporate limits of the City.

B. No person under the age of 18 shall discharge consumer fireworks without parental supervision.

C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

D. Any person discharging a consumer fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.

E. It shall be unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.

F. A person shall not use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property. Unless specifically authorized through the issuance of a City permit, the use of fireworks is strictly prohibited on property owned by the City, including, but not limited to, parks, streets, trails, City Hall, public safety, and any other property owned by the City.

4. Sale of Fireworks.

A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the Fire Chief:

(1) License. Proof of valid license issued from the State Fire Marshal.

(2) Liability Insurance. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of $2,000,000.

(3) Fire Inspection. Any property, building, or premise, whether it be permanent or temporary, intended for the sale of consumer fireworks shall have an initial fire inspection completed by the Fire Chief prior to engaging in the sale of consumer fireworks. The Fire Chief, or their designee, shall cause an annual inspection to occur meeting the requirements of the *National Fire Protection Code 1124* (2006 edition) and the current *Fire Code* adopted by the City. Inspection costs shall be assessed as follows:

a. Permanent structure where fireworks are sold - annual inspection fee of $100.00.

b. Temporary or non-brick or mortar building where fireworks are sold - annual inspection fee of $200.00.

B. Safety Requirements. The following safety requirements shall be adopted for all locations where consumer fireworks are sold:

(1) All transportation, storage, and sales of consumer fireworks shall conform to the safety standards set forth by the *National Fire Protection Code 1124* (2006 Edition), including, but not limited to, those standards concerning separation distance requirements and aggregate weight limits.

(2) Smoking, open flame source, or matches shall not be located within 50 feet where consumer fireworks are sold. The following exemptions apply:

a. Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where consumer fireworks are not the primary business.

b. Locations that engage in consumer fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.

(3) All electrical wiring shall meet *NFPA 70 National Electrical Code*. Permanent structures or buildings used primarily for consumer fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.

(4) Locations shall maintain 48-inch clear aisles between consumer fireworks display shelves.

(5) Locations shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.

(6) Consumer fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.

(7) Locations shall have a minimum of two 10-pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher.

(8) All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within eight seconds.

(9) No persons under the influence of alcohol, drugs, or narcotics shall be allowed to remain in the business where consumer fireworks are sold as a primary business.

(10) Any person engaged in consumer firework sales in any other zone other than commercial and industrial zoned areas shall not be approved for sales within the City limits.

(11) No person shall sell a DOT 1.4 Class Consumer Firework to a person under the age of 18.

(12) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

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

5. Novelties. This section does not apply to novelties.

40.02.12 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)

40.02.13 SMOKING AND TOBACCO USE PROHIBITED AT CITY FACILITIES.

1. Definitions.

A. City Facilities. The term "City facilities" means all property, whether or not enclosed, under the control of the City. City facilities include, but are not limited to, all: work areas; employee lounges; restrooms; conference rooms; classrooms; cafeterias; meeting rooms; elevators; stairways; parking garages; parking lots; vehicles and equipment owned, rented, or leased by the City; and any public or private area open to the public for recreational purposes, such as fairgrounds; athletic fields; beaches; gardens; parks; parklets; plazas; skate parks; swimming pools; trails; outdoor picnic tables; and grassy areas. City facilities do not include streets and sidewalks used only as pedestrian or vehicular thoroughfares, unless otherwise prohibited by this section or other law.

B. Electronic Smoking Device. The term "electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine or other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

C. Smoking. The term "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco, nicotine, or plant product intended for inhalation, including hookah and marijuana, whether natural or synthetic. "Smoking" also includes the use of an electronic smoking device.

D. Tobacco Product. The term "tobacco product" means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. "Tobacco product" also includes electronic smoking devices. "Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the *Federal Food, Drug, and Cosmetic Act*.

2. Smoking and Tobacco Use Prohibited. Smoking and tobacco use is prohibited in all City facilities at all times. No person shall smoke, use, sell, or distribute any tobacco product at or on any City facilities.

3. Violations. Violations of this section are declared to be municipal infractions pursuant to Chapter 3. Any person who smokes or uses tobacco in an area where smoking and tobacco use is prohibited by the provisions of this section shall be guilty of a municipal infraction, punishable by a fine set in the fee schedule.

40.02.14 FAILURE TO ASSIST. A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing

so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

(Code of Iowa, Sec. 727.12)

[The next page is 347]

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.03

PUBLIC AND PRIVATE PROPERTY

40.03.01 Trespassing
40.03.02 Criminal Mischief
40.03.03 Defacing Proclamations or Notices
40.03.04 Fraud and Theft
40.03.05 Coasters and Roller Skates
40.03.06 Use of Streets
40.03.07 Picketing of a Residence or Dwellings
40.03.08 Use of Public Property for Drug Trafficking
40.03.09 Graffiti Prohibited
40.03.10 Other Public Property Offenses

40.03.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8(1))

2. Definitions. The following terms have been defined for use in this section.

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

A. "Property" means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.

(Code of Iowa, Sec. 716.7(1)(a))

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

(Code of Iowa, Sec. 716.7(1)(b))

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

(Code of Iowa, Sec. 716.7(1)(c))

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

(Code of Iowa, Sec. 716.7(1)(d))

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

(Code of Iowa, Sec. 716.7(1)(e))

F. "Reasonable expectation of privacy" means circumstances in which a reasonable person would believe that the person could disrobe or partially disrobe in privacy, without being concerned that the person disrobing or partially disrobing was being viewed, photographed, or filmed when doing so.

(Code of Iowa, Sec. 716.7(1)(f))

G. "Trespass" means one or more of the following acts:
(Code of Iowa, Sec. 716.7(2)(a))

(1) Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate.
(Code of Iowa, Sec. 716.7(2)(a)(1))

(2) Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any police [peace] officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property. A person has been notified or requested to abstain from entering or remaining upon or in property within the meaning of this subparagraph if any of the following are applicable:
(Code of Iowa, Sec. 716.7(2)(a)(2))

a. The person has been notified to abstain from entering or remaining upon or in property personally, either orally or in writing, including by a valid court order under Chapter 236 of the *Code of Iowa*.
(Code of Iowa, Sec. 716.7(2)(a)(2)(a))

b. A printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to the property or the forbidden part of the property.
(Code of Iowa, Sec. 716.7(2)(a)(2)(b))

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.
(Code of Iowa, Sec. 716.7(2)(a)(3))

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.
(Code of Iowa, Sec. 716.7(2)(a)(4))

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This subparagraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.
(Code of Iowa, Sec. 716.7(2)(a)(5))

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that

owns, leases, or operates the public utility property. This subparagraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

(Code of Iowa, Sec. 716.7(2)(a)(6))

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

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

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

(Code of Iowa, Sec. 716.7(2)(b)(1))

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

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

C. This section shall not apply to the following persons:

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

(1) Representatives of the State Department of Transportation, the Federal Railroad Administration, or the National Transportation Safety Board who enter or remain upon or in railway property while engaged in the performance of official duties.

(Code of Iowa, Sec. 716.7(3)(a))

(2) Employees of a railway corporation who enter or remain upon or in railway property while acting in the course of employment.

(Code of Iowa, Sec. 716.7(3)(b))

(3) Any person who is engaged in the operation of a lawful business on railway station ground or in the railway depot.

(Code of Iowa, Sec. 716.7(3)(c))

(4) Representatives of the State Utilities Commission, the Federal Energy Regulatory Commission, or the Federal Communications Commission who enter or remain upon or in public utility property while engaged in the performance of official duties.

(Code of Iowa, Sec. 716.7(3)(d))

(5) Employees of a public utility who enter or remain upon or in public utility property while acting in the course of employment.

(Code of Iowa, Sec. 716.7(3)(e))

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

(Code of Iowa, Sec. 716.1)

40.03.03 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)

40.03.04 FRAUD AND THEFT. It is unlawful for any person to commit a fraudulent practice in the fifth degree as defined in Sections 714.8 and 714.13 of the *Code of Iowa*, or to commit theft in the fifth degree as defined in Sections 714.1 and 714.2 of the *Code of Iowa*. A person commits theft when the person does any of the following:

(Code of Iowa, Sec. 714.1)

1. Takes possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.

2. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person.

3. Obtains the labor or services of another, or a transfer of possession, control, or ownership of the property of another, or the beneficial use of property of another, by deception.

4. Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer.

5. Takes, destroys, conceals, or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person or corporation, and obtains property, the use of property, including rental property, or service in exchange for such instrument, if the person knows that such check, share draft, draft or written order will not be paid when presented.

7. Obtains gas, electricity, or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing, or tampering with the metering or service device so as to cause inaccurate readings.

8. Knowingly and without authorization accesses or causes to be accessed a computer, computer system, or computer network, or any part thereof, for the purpose of obtaining computer services, information, or property or knowingly and without authorization and with the intent to permanently deprive the owner of possession, takes, transfers, conceals, or retains possession of a computer, computer system, or computer network or any computer software or computer program, or computer data contained in a computer, computer system, or computer network.

9. Obtains the temporary use of video rental property with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner, or lawfully obtains the temporary use of video rental property and fails to return the video rental property by the agreed time with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner. The aggregate value of the video rental property involved shall be the original retail value of the video rental property.

10. Any act that is declared to be theft by any provision of the *Code of Iowa*.

40.03.05 COASTERS AND ROLLER SKATES. No person upon roller skates or riding in or by means of any coaster, toy vehicle, or similar device shall go upon any roadway, except when crossing a street on a crosswalk.

40.03.06 USE OF STREETS.

1. 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)

2. 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)

3. Placing Debris On. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

4. 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))

5. 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.

6. 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.

7. 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 their own vehicle or equipment when it is lawfully parked in the street or alley.

8. 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.

40.03.07 PICKETING OF A RESIDENCE OR DWELLING. It is unlawful for any person to engage in focused picketing before, about, or immediately adjacent to the residential lot or dwelling of any individual in the City.

1. For the purpose of this section, "before, about, or immediately adjacent to" means:

A. Within one house on either side of the targeted residential lot or dwelling; or

B. On any public property immediately adjacent to the targeted residential lot or dwelling; or

C. On any public property directly across the street from the targeted residential lot or dwelling.

2. For the purpose of this section, "focused picketing" means any picketing or organized demonstration that is intended or can be reasonably viewed as one or more of the following:

A. Intended or reasonably calculated to cause emotional distress or disturbance to the occupants of the targeted residential lot or dwelling; or

B. Causing emotional distress or disturbance to the occupants of the targeted residential lot or dwelling; or

C. Intended or reasonably calculated to disturb the sense of peace and tranquility of the occupants of the targeted residential lot or dwelling; or

D. Causing a disturbance to the sense of peace and tranquility of the occupants of the targeted residential lot or dwelling.

40.03.08 USE OF PUBLIC PROPERTY FOR DRUG TRAFFICKING.

1. No person shall behave in or upon any public property in a manner in and under circumstances by which they manifest the purpose of inducing, inviting, enticing, persuading, soliciting, or procuring another to conduct an illegal drug transaction.

2. The violator's conduct must be such as to demonstrate a specific intent to induce, invite, entice, persuade, solicit, or procure another to conduct an illegal drug transaction.

3. Intent to induce, invite, entice, persuade, solicit, or procure another to conduct an illegal drug transaction shall be shown by specific acts which may, but need not, include any of the following:

A. Repeatedly beckoning to, stopping, or attempting to stop or engage passersby in conversation; or

B. Repeatedly stopping or attempting to stop motor vehicle operators by hailing, waving of arms, or any other bodily gesture; or

C. Repeatedly interfering with the free passage of other persons.

40.03.09 GRAFFITI PROHIBITED. No person shall, by use of any substance whatsoever, including spray paint, inscribe graffiti upon any structure, sidewalk, street surface, or other public or private property.

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

1. Chapter 52 – Abandoned Vehicles.
2. Chapter 53 – Litter Control.
3. Chapter 54 – Noise Control.
4. Chapter 105 – Solid Waste Control and Recycling.
5. Chapter 136 – Sidewalk Regulations.
    A. Section 136.16 – Interference with Sidewalk Improvements.
    B. Section 136.20 – Fires or Fuel on Sidewalks.
    C. Section 136.21 – Defacing.
    D. Section 136.22 – Debris on Sidewalks.
    E. Section 136.24 – Merchandise Display.
    F. Section 136.25 – Sales Stands.

[The next page is 359]

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.04

DRUGS AND CONTROLLED SUBSTANCES

40.04.01 Purpose
40.04.02 Controlled Substance Defined
40.04.03 Drug Paraphernalia Defined
40.04.04 Determining Factors
40.04.05 Possession of Drug Paraphernalia
40.04.06 Manufacture, Delivery, or Offering For Sale
40.04.07 Possession of a Controlled Substance

40.04.01 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.

40.04.02 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.

40.04.03 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.

40.04.04 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 whom 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 explaining or depicting 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 objects 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.

40.04.05 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*.

40.04.06 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*.

40.04.07 POSSESSION OF A CONTROLLED SUBSTANCE. It is unlawful to be in possession of a controlled substance in violation of the *Uniform Controlled Substances Act*, Chapter 124 of the *Code of Iowa*.

[The next page is 367]

CHAPTER 40 – PUBLIC OFFENSES

SUBCHAPTER 40.05

WEAPONS

40.05.01 Lasers and Simulated Laser Devices
40.05.02 Sale or Exchange of Daggers, Brass Knuckles
40.05.03 Knives on School Property
40.05.04 Blowguns
40.05.05 Slings and Slingshots
40.05.06 Bows and Arrows
40.05.07 Throwing and Shooting; Discharging Weapons
40.05.08 Furnishing Weapons to Minors

40.05.01 LASERS AND SIMULATED LASER DEVICES.

1. Definitions. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this section, have the meanings given in this subsection.

A. "Laser" means any pointing device, siting device, or other device that converts incident electromagnetic radiation of mixed frequencies to one or more discrete frequencies of highly amplified and coherent visible radiation. This includes any device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

B. "Minor" means any person under 18 years of age.

C. "School or other educational facility" means the buildings, grounds, or facilities (or any portion thereof) owned, occupied by, or under the custody or control of public or private institutions for the primary purpose of providing educational or recreational instruction to students.

D. "Simulated laser" means any pointing device, siting device, or other device that emits a beam of light similar in effect or appearance to that of a laser.

E. "Vehicle" means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a street, including motor vehicles, motorcycles, and bicycles.

2. Pointing of Lasers at Individuals. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with another individual. A violation of this provision shall be classified as an "assault" under Section 40.01.01 and shall be punishable accordingly.

3. Pointing of Lasers at a Police Officer or Emergency Service Provider. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with a law enforcement official, uniformed police officer, uniformed traffic enforcement officer, uniformed member of a paid or volunteer fire department, uniformed emergency medical service worker, uniformed ambulance worker, or other uniformed City, County, State, or federal peace officer, investigator, or emergency service worker. A violation of this provision shall be classified as an "assault" under Section 40.01.01. Any person found guilty of this provision shall be punished with the maximum fine allowed by law.

4. Pointing of Lasers at a Vehicle. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with a vehicle. For purposes of this provision, the term "vehicle" includes only those vehicles being operated on a public street at the time the vehicle comes into contact with any laser or simulated laser. A violation of this provision shall be classified as "harassment" under Section 40.01.02 and shall be punishable accordingly.

5. Pointing of Lasers at Police or Emergency Service Vehicles. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with a vehicle being operated by a law enforcement official, uniformed police officer, uniformed traffic enforcement officer, uniformed member of a paid or volunteer fire department, uniformed emergency medical service worker, uniformed ambulance worker or other uniformed City, County, State, or federal peace officer, investigator, emergency service worker, or law enforcement official on duty and performing official acts with the City. A violation of this provision shall be classified as "harassment" under Section 40.01.02. Any person found guilty of this provision shall be punished with the maximum fine allowed by law.

6. Pointing of Lasers at a Public Facility. No person shall use a laser or simulated laser in such a manner as to cause the beam of such laser or simulated laser to come into direct contact with any facility, property, or equipment owned or operated by the City or any other governmental entity. A violation of this provision shall be classified as "harassment" under Section 40.01.02. Any person found guilty of this provision shall be punished with the maximum fine allowed by law.

7. Use of Lasers by Minors. No person shall furnish to any minor by gift, sale, or otherwise, any laser or simulated laser unless:

A. Said minor is on the property of a school or other educational facility and actually participating in a supervised school program at the time the minor is given actual possession of the laser or simulated laser; or

B. Said minor is using the laser or simulated laser on private property and in the direct supervision of an adult.

40.05.02 SALE OR EXCHANGE OF DAGGERS, BRASS KNUCKLES. No person shall exhibit for sale, exchange, gift, or any other purpose, in any showcase, show window, or other place, exposed to public view, any dagger, Bowie knife, stiletto, butterfly knife, switchblade knife, or other knife or instrument which opens by hand pressure applied to a button or other device in the handle of the knife or by operation of inertia, gravity, or both, throwing stars, or any other martial arts weapon, brass knuckles, or knuckles of lead, brass, or other metal or materials; or display any sign, poster, cartoon, or card, suggesting the keeping for sale, exchange, or gift of any of the above described sections. Nothing in this section shall be deemed to prohibit the display of such articles for educational or historical purposes.

40.05.03 KNIVES ON SCHOOL PROPERTY. No person shall possess, own, or carry, on or about their person, whether concealed or not, any knife on primary or secondary school property within the City, with the exception of a knife or knives furnished by such school system or specifically authorized by such school system, and then only in connection with the specific activity for which so authorized.

40.05.04 BLOWGUNS. No person shall use any blowgun or similar device, or throw any stone, stick, or other substance in such a manner as to hit, injure, or endanger any person, window, or other property.

40.05.05 SLINGS AND SLINGSHOTS. No person shall keep, possess, sell, give, use, fire, shoot, or discharge any sling, slingshot, wrist slingshot, or wrist-supported slingshot of any type or kind within the corporate limits.

40.05.06 BOWS AND ARROWS. No person shall shoot a bow and arrow, except pursuant to the following subsections, within the City or within a City-owned park, without permission from the Police Chief. Such permission shall limit the time and place of shooting and may be revoked by the Police Chief. To "shoot a bow and arrow" means to place a nock of the arrow in the string of a bow or of any other object and to release the arrow in such fashion that when the string is pulled and released, the arrow thrusts forward.

1. General Regulations. No person shall shoot a bow and arrow within the City or in a City-owned park, except as follows:

A. Any person may participate in a supervised program of physical education or competitive sports in a public or private school or in a City park area designated by the City.

B. Any person may shoot a bow and arrow at a public or private lane or range that has been certified by the Archery Lane Operators Association or the National Field Archery Association.

C. Any participant may shoot a bow and arrow in a tournament which either has been approved by the City Administrator at least one week prior to the time of the tournament and for which tournament rules have been submitted to the City Administrator or is conducted at a licensed lane or range.

D. Any person may shoot a bow and arrow on private or school property provided the requirements of the following subsection are met.

2. Use of Bows and Arrows on Private Property. No person shall shoot a bow and arrow in such fashion that it travels beyond the boundaries of the private or school property on which the person is shooting. Any person shooting a bow and arrow on private or school property shall direct the arrow toward a backdrop composed of a substance which will not allow the arrow to pass through, and such backdrop must extend at least five feet beyond the target on the top and both sides and must extend from the bottom of the target to the ground. The target shall be constructed and installed so that the target face cannot move more than two inches in any direction.

3. Use of Bows and Arrows for Hunts. No person shall shoot a bow and arrow within the City limits or in a City-owned park at any living being such as an animal, bird, fish, or fowl.

4. Use of Bows and Arrows by Minors. No person shall furnish to any minor under 15 years of age by gift, sale, or otherwise, any arrows or components thereof unless said minor is participating in a supervised school program or is practicing at an approved public or private archery lane or range or is practicing on the private property of the supervising adult.

40.05.07 THROWING AND SHOOTING; DISCHARGING WEAPONS. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot, fire, or discharge rifles, shotguns, revolvers, pistols, guns, air guns, BB guns, or firearms of any kind within the City limits except by authorization of the Council. The term "air gun" means any gun, including handguns, capable of propelling a pellet or other projectile from the barrel of such gun by non-explosive means, such as compressed air, CO2, or other gas. The term "BB gun" means any such gun capable of propelling a BB or other projectile from the barrel by means of a spring mechanism or air. The terms "shoot," "fire," and "discharge" mean the act of triggering the mechanism of such air gun or BB gun so that it propels a pellet, BB or other projectile from the barrel of such gun.

40.05.08 FURNISHING WEAPONS TO MINORS. No person shall give, sell, lend, or provide to any person under the age of 18 years any sword, dirk, dagger, or knife other than an ordinary penknife or pocketknife with a blade not to exceed three inches in length, or any spring blade, switch blade, or snap blade knife, or any blackjack, bludgeon, or similar weapon, or metallic knuckles, or any firearm, air gun, or other missile throwing device, or any ammunition or missiles for use therewith, or any explosive substance or device, or any other device designed primarily for use as a weapon; provided, however, arms, ammunition, and other equipment for hunting, fishing, and other lawful sports may be furnished to a person under the age of 18 years by or with the consent of that person's parent or guardian. No minor under 18 years of age shall possess, own, or carry on or about their person, whether concealed or not, within the City any knife which opens by hand pressure applied to a button, lever, switch, or other device in the handle of the knife or by operation of inertia, gravity, or both. No person under the age of 18 shall shoot, fire, or discharge any air gun or BB gun unless under the direct supervision of an adult.

[The next page is 375]

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.06

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Containers in Motor Vehicles
45.04 Prohibited Sales and Acts

40.06.01 PERSONS UNDER LEGAL AGE. As used in this section, "legal age" means 21 years of age or more.

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

(Code of Iowa, Sec. 123.47(3))

2. A person under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage from any retail alcohol licensee.

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

40.06.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that needs to 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)

40.06.03 OPEN CONTAINERS IN MOTOR VEHICLES. (*See Sections 60.03.01(50) and (51).)*

40.06.04 PROHIBITED SALES AND ACTS. See Section 120.05 for restrictions imposed on persons or clubs holding a liquor license or retail wine or beer permit.

[The next page is 381]

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.07

MINORS

40.07.01 Cigarettes and Tobacco
40.07.02 Contributing to Delinquency
40.07.03 Persons Under Legal Age

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

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

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

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

40.07.03 PERSONS UNDER LEGAL AGE. See Section 121.09 for provisions relating to persons selling, giving, or otherwise supplying tobacco, tobacco products, or cigarettes to persons under 21 years of age.

[The next page is 387]

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.08

PARK REGULATIONS

40.08.01 Park Hours
40.08.02 Park Shelter, Performance Pavilion, and Baseball Diamond Fees
40.08.03 Parking
40.08.04 Use of Drives Required
40.08.05 Public Meetings and Organized Uses
40.08.06 Destruction of Plant or Animal Life
40.08.07 Fires
40.08.08 Fireworks and Explosives
40.08.09 Waste Material and Littering
40.08.10 Camping Areas
40.08.11 Disorderly and Obscene Conduct; Nuisances
40.08.12 Buildings and Animals
40.08.13 Dogs and Pets
40.08.14 Posted Notices
40.08.15 Unauthorized Signs
40.08.16 Moving Benches and Tables
40.08.17 Removal of Wood, Grass, or Gravel
40.08.18 Golf Balls
40.08.19 Power-Driven Model Airplanes
40.08.20 Responsibility of Parent or Guardian
40.08.21 Roller Skates, Roller Blades, Skateboards, Coasters, Scooters, and Bicycles
40.08.22 Misdemeanor

40.08.01 PARK HOURS. No person shall remain in any public park, community center, or City recreational facility during the periods of time set by this section unless special permission shall have been given by the City Administrator for such person or group of persons to remain there:

1. No person shall remain in or on any City park or the grounds thereof from sunset to sunrise.

2. Any person can utilize any City trail 24 hours a day.

40.08.02 PARK SHELTER, PERFORMANCE PAVILION, AND BASEBALL DIAMOND FEES. The shelter house, performance pavilion and baseball diamond of the City park located at 6900 School Street may each be reserved for meetings, gatherings, and organized events, such as picnics, parties, and entertainment for charitable purposes, upon receipt of signed rental agreement and payment of a daily fee. Rental agreements may be electronically signed. Such assemblages shall be conducted in a lawful and orderly manner. The rental fees for the use of these facilities and associated amenities (such as audio-visual equipment) are established by resolution of the Council.

40.08.03 PARKING. All vehicles parked in a park shall be parked in designated parking areas.

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

40.08.05 PUBLIC MEETINGS AND ORGANIZED USES. Public meetings, religious, political, or otherwise, including picnics, parties, and entertainment for charitable or religious purposes, may be held in any public park upon first obtaining permission from the City Administrator. Such assemblages shall be conducted in a lawful and orderly manner, shall be under the supervision of the City, and shall occupy such ground as may be reserved for them. Permits shall be obtained from the City Administrator for use of parks and facilities by organized groups for all such purposes including athletic and sporting activities.

40.08.06 DESTRUCTION OF PLANT OR ANIMAL LIFE. No unauthorized person shall in any manner deface, injure, or remove any tree, shrub, or plant standing or growing in any public park or recreation facility, or pick or destroy any flowers or seeds growing therein. No persons, except persons authorized, shall remove or attempt to remove, injure, or kill any wild or captive animal in any public park or recreation facility.

40.08.07 FIRES. No person shall kindle, build, maintain, or in any way light a fire in any public park in the City except in fireplaces provided, or in self-supporting barbecue grills or stoves in places designated as picnic areas, or by special written permit from the City Administrator after a determination that such fire creates no hazards to the park or to persons in the immediate vicinity. No fire shall be built within 10 feet of any tree or building or beneath the branches of any tree or in any underbrush unless such fire is enclosed within a stove, oven, or fireplace provided on the premises by the City for use in picnic cooking. Any fire shall be continuously under the care and control of a competent person; from the time it is kindled until it is extinguished.

40.08.08 FIREWORKS AND EXPLOSIVES. No person shall use firearms, explosives, weapons, firecrackers, or fireworks of any character in any public park, except as otherwise provided by ordinance.

40.08.09 WASTE MATERIAL AND LITTERING. No person shall place, deposit, or throw any waste, refuse, litter, or foreign substance on the ground or in any area or receptacle in a park except in receptacles provided for that purpose. Park waste receptacles shall not be used for dumping trash or rubbish introduced in that form to the park.

40.08.10 CAMPING AREAS. No person shall camp in any portion of a park or right-of-way.

40.08.11 DISORDERLY AND OBSCENE CONDUCT; NUISANCES. No person shall use any loud, violent, obscene, or profane language while in any public park, nor shall any person conduct themselves in a disorderly or obscene manner or commit any nuisance therein.

40.08.12 BUILDINGS AND ANIMALS. No person shall disturb or interfere with any building or improvement of any kind made or being made in or about any public park or disturb or interfere with birds or animals kept or found therein.

40.08.13 DOGS AND PETS. No dog or pet shall be allowed to run at large in any public park. Any dog or pet shall be deemed to be found running at large, unless the owner carries such dog or pet or leads such dog or pet by a chain, strap, or rope not exceeding six feet in length, or keeps any such dog or pet confined in an automobile. However, any dog or pet especially trained to assist a blind or partially blind person and accompanying such person shall not be deemed to be running at large, even though restraints as described herein are not used. Such person shall keep the guide dog under control and shall be liable for any damage done to the premises or facilities by the dog or pet. The Police Chief shall remove and impound any dog or pet running at large in any public park.

40.08.14 POSTED NOTICES. No person shall enter upon any land owned or leased to the City and under its jurisdiction and conduct activities thereon in disregard of signs or posted notices forbidding the same.

40.08.15 UNAUTHORIZED SIGNS. No person shall post, paste, fasten, paint, or affix any non-City affiliated placard, bill, notice, or sign upon any structure, tree, stone, fence, or enclosure along or within any park.

40.08.16 MOVING BENCHES AND TABLES. No person shall move benches, seats, or tables from their places in any park, except on picnic grounds.

40.08.17 REMOVAL OF WOOD, GRASS, OR GRAVEL. No person shall cut or remove any wood, turf, grass, soil, rock, sand, or gravel from any public park without written permission from the Council.

40.08.18 GOLF BALLS. No one shall drive, hit, or play with a golf ball in any City park except in an area clearly designated by a sign permitting such activity, posted in a conspicuous place.

40.08.19 POWER-DRIVEN MODEL AIRPLANES. No one shall fly, glide, or play with a fuel-powered model airplane in any City park except in an area clearly designated by a sign permitting such activity, posted in a conspicuous place.

40.08.20 RESPONSIBILITY OF PARENT OR GUARDIAN. No parent, guardian, or custodian of a minor shall allow the minor to do any act prohibited by any provision of the rules set out by the provisions of this subchapter.

40.08.21 ROLLER SKATES, ROLLER BLADES, SKATEBOARDS, COASTERS, SCOOTERS, AND BICYCLES. No person shall ride in, ride upon, or in any manner operate any roller skates, roller blades, skateboard, coaster, scooter, bicycle, or similar devices in the following facilities: outdoor performance pavilion in Colby Park. The provisions of this section shall not apply to wheelchairs or other devices designed to aid handicapped or impaired persons when operated by a handicapped or impaired person.

40.08.22 MISDEMEANOR. Any person who violates Sections 40.08.01 through 40.08.21 of this subchapter shall be guilty of a misdemeanor. (See Fee Schedule.)

[The next page is 395]

CHAPTER 40 - PUBLIC OFFENSES

SUBCHAPTER 40.09

OTHER PUBLIC OFFENSES ENFORCEMENT PROVISIONS

40.09.01 Peddlers, Solicitors, and Transient Merchants
40.09.02 Adult Entertainment Facilities
40.09.03 Sidewalk Regulations

40.09.01 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.

1. Permit Required. See Section 122.02 for provisions relating to licenses required for persons engaged in peddling and soliciting.

2. Display of Permit. See Section 122.07 for provisions requiring peddlers and solicitors to keep license available.

3. Time Restrictions. See Section 122.09 for provisions relating to times when peddlers and solicitors may operate.

40.09.02 ADULT ENTERTAINMENT FACILITIES. See Chapter 125 for provisions relating to the operation of an adult entertainment facility.

40.09.03 SIDEWALK REGULATIONS.

1. Interference with Sidewalk Improvements. See Section 136.11 for provisions relating to driving vehicles upon or removing, destroying, marring, or defacing any part of a sidewalk.

2. Fires or Fuels. See Section 136.20 for provisions relating to fires or fuels on sidewalks.

3. Defacing. See Section 136.21 for provisions relating to painting or writing on sidewalks.

4. Debris. See Section 136.22 for provisions relating to throwing or depositing trash or debris of any kind on sidewalks.

5. Merchandise Display. See Section 136.24 for provisions relating to sale of merchandise on sidewalks.

6. Sales Stands. See Section 136.25 for provisions relating to vending machines or other sales stands on sidewalks.

[The next page is 401]

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Nuisances Prohibited
50.04 Nuisance Abatement
50.05 Abatement of Nuisance by Written Notice
50.06 Municipal Infraction Abatement Procedure
50.07 Termination of Rental Certificate
50.08 Rebuttable Presumption

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. Offensive Smells. Erecting, continuing or using any building or other place for the exercise of any trade, employment, or manufacture 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. 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.

4. Blocking Public and Private Ways. Obstructing or encumbering, by trees, hedges, fences, billboards, buildings, or other obstructions (including moveable objects), the public roads, private ways, streets, alleys, commons, landing places, or burying grounds. All obstructions, whether natural or manmade, which hinder persons from having an adequate view of traffic so as to prevent them from the continued safe travel on a public street.

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

6. Storing of Flammable Material. Depositing or storing of flammable material, including, but not limited to, 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.

7. Air Pollution. Emission of dense smoke, noxious fumes, or fly ash.

8. 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, or which otherwise constitute

a nuisance under this chapter. For purposes of this subsection, all growths of grass or weeds in excess of six inches in height shall be deemed to be a nuisance. Exempt from this subsection are growths used primarily for educational and/or research purposes, so long as the growths are controlled. Also exempt from this subsection is ornamental grass.

9. Sewage. The discharge or exposure of sewage, garbage, or any other organic waste matter into or on any public place.

10. Poison. The deposit of any poisonous material or thing on any premises, so as to allow access to it by any animal or person.

11. Stagnant Water. Breeding places for mosquitoes, to include stagnant water in fishponds, swimming pools, tires, open barrels, and other devices holding water.

12. Construction Debris. Depositing, or permitting to be deposited, dirt, debris, or other sedimentation resultant from grading, construction, demolition, or repair activities:

A. Onto public rights-of-way in amounts which could cause a danger to public health, safety, or welfare; or

B. Into public storm sewers or drainage ways in amounts which could cause an obstruction to the flow of same; or

C. Into a public stream, river, or lake in amounts which could cause pollution of same.

13. Dangerous Structures. Residential or non-residential structures, including those damaged by fire or decay, the condition of which constitutes a hazard to safety or to health as determined by the Building Official.

14. Faulty Water Service. Discharge of water upon or under public streets or sidewalks by reason of faulty water service.

15. Floodlights. Permitting or allowing the illumination of floodlights, yard lights, or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.

16. Dangerous Machinery. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.

17. Loose Overhanging Objects. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

18. Fireworks. All use or display of fireworks, except as permitted by law or this Code. The use of illegal fireworks will be deemed an immediate nuisance and shall be subject to enforcement by municipal infraction.

19. Required Improvements. Failure to install any improvement required by any portion of this Code, or other law or agreement.

20. Tree of Heaven. The Tree of Heaven is an invasive species and should not be allowed to grow.

21. Nuisance Houses. Houses that require more than one police response to the same location or address within a 180-day period, during which police response an officer makes a determination that something at or on the location or address is injurious

to health, indecent, or unreasonably offensive to the senses, or is an obstruction to the free use of property, essentially interfering unreasonably with the comfortable enjoyment of life or property.

22. Businesses, the operation or maintenance of which adversely impacts nearby residential or commercial uses and which:

A. Jeopardizes or endangers the public health or safety, or the health of safety of persons residing or working on the premises or in the surrounding area;

B. Has resulted in or facilitated any of the following activities: disturbance of the peace, illegal drug activity, including sales or possession thereof, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, illegal parking, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), noxious smells or fumes, traffic violations, or police detention, citations or arrests; or

C. Violates any other section of this article or any other City, State, or federal regulation, ordinance, or statute.

23. Violations of the Code. Violations constitute nuisances in other chapters of this Code.

50.03 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)

50.04 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine, on a case-by-case basis, whether to utilize the nuisance abatement procedure described in Section 50.05 or the municipal infraction procedure referred to in Section 50.06. With regard to the nuisance enumerated in Section 50.02(22), property owners will be notified after the first determination by a police officer that conditions exist posing a nuisance and that a second determination of this kind will immediately constitute the failure to abate a nuisance as outlined in Section 50.05(8), subjecting the property owner to applicable fines.

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain:

A. Description of Nuisance. A description of what constitutes the nuisance.

B. Location of Nuisance. The location of the nuisance.

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

C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

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

E. Assessment of City Costs. The City Administrator shall send a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Administrator 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(3)(h))

2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists, and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 of this section after notice to the property owner under the applicable provisions of Subsection 1 and 2 of this section, and the hearing as provided in Subsection 3 of this section.

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

5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

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

6. Collection of Costs. The Clerk shall send a statement of the total expense incurred, by certified mail, to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within 30 days after the statement was sent, the Clerk may retain attorneys or private collection agents for the purpose of collecting any default in payment of any fine or penalty or installment of that fine or penalty. Any fees or costs incurred by the City with respect to attorneys or private collection agents retained under this subsection shall be charged to the offender.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds $500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code.

50.06 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.05, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code.

50.07 TERMINATION OF RENTAL CERTIFICATE. Rental certificates shall automatically terminate and become null and void upon issuance of a nuisance abatement notice that is related, in any way, to property to which a Rental Certificate applies. The owner of any such rental property shall be required to register the property again, including the complete inspection process, as provided in Chapter 156. Failure to obtain a valid Rental Certificate is a municipal infraction.

50.08 REBUTTABLE PRESUMPTION. In any proceeding charging a violation of this chapter, proof that the particular violation described constitutes a violation of this chapter, together with proof that the particular named violator was the owner, agent, tenant, or lessee of the residential dwelling, commercial establishment, or real property upon which the violation occurred, shall be deemed to create a rebuttable presumption that such violator was the party violating this chapter. As to property abandoned in the public real property, it is presumed that the abandoned property was placed there by or with the consent of the owner, agent, tenant, or lessee of the abutting property.

[The next page is 411]

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions
51.02 Damaged or Inoperable Vehicle a Nuisance
51.03 Exceptions
51.04 Abatement

51.01 DEFINITIONS. For purposes of 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. Junk also includes the following:

A. Hazardous accumulations of rubbish or trash and rank growth of weeds or other vegetation and plants tending to harbor vermin or rodents, or which are otherwise conducive to hazard.

B. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked or fastened, which are outside of enclosed buildings and may become accessible to children or others, or allowing any such refrigerator, ice box, or similar container, to remain outside of enclosed buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children or others.

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

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

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

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

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

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

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

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

3. "Vehicle" means and includes any 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, motor vehicle, bus, motor home, automobile, truck, trailer, motorcycle, tractor, wagon, or any combination thereof.

51.02 DAMAGED OR INOPERABLE VEHICLE A NUISANCE. The City hereby declares that the parking or storage of damaged vehicles on private property within the corporate limits of the City, where not authorized by law, is a nuisance because the same is injurious to health, indecent, and offensive to the senses, and is an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life and property.

51.03 EXCEPTIONS. The provisions of this chapter do not apply to:

1. Storage in Buildings. Damaged or inoperable vehicles kept on private property stored entirely within an enclosed building; or

2. On Premises of Licensed Vehicle Recycler. Damaged vehicles kept on private property in a GC or LI District under the Zoning Code by a person licensed as an authorized vehicle recycler under the provisions of Chapter 321H of the *Code of Iowa*, when storage thereof is permitted under the Certificate of Occupancy issued for the private property involved.

51.04 ABATEMENT. Whenever the City Administrator or other authorized municipal officer finds that a violation of this chapter has occurred, such officer has the authority to determine, on a case-by-case, basis whether to utilize the nuisance abatement procedure described in Section 50.05 or the municipal infraction procedure referred to in Section 50.06.

[The next page is 417]

CHAPTER 52

ABANDONED VEHICLES

52.01 Definitions
52.02 Authority to Take Possession of Abandoned Vehicles
52.03 Notice by Mail
52.04 Reclamation of Abandoned Vehicles
52.05 Fees for Impoundment
52.06 Disposal of Abandoned Vehicles
52.07 Disposal of Totally Inoperable Vehicles
52.08 Proceeds from Sales
52.09 Duties of Demolisher
52.10 Bids for Towing and Storage
52.11 Abatement

52.01 DEFINITIONS. For purposes of this chapter, the following terms are defined. *(Code of Iowa, Sec. 321.89(1) and Sec. 321.90)*

1. "Abandoned vehicle" means any of the following:

   A. A vehicle that has been left unattended on public property for more than 24 hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.

   B. A vehicle that has remained illegally on public property for more than 24 hours.

   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.

   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 10 days. However, a police authority may declare the vehicle abandoned within the 10-day period by commencing the notification process.

   E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

   F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.

4. "Police authority" means the Iowa State Patrol or any law enforcement agency of a county or city.

52.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The

police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

52.03 NOTICE BY MAIL.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody, no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.

2. Notice shall be deemed given when mailed. The notice shall include all of the following:

A. A description of the year, make, model, and vehicle identification number of the vehicle.

B. The location of the facility where the vehicle is being held.

C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property 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 required pursuant to this section.

D. A statement that 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.

E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.

3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90(1) of the *Code of Iowa* and may proceed to sell or dispose of the vehicle.

4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity, or of the assessment of fees and charges provided by this section, may ask for an evidentiary hearing before the police authority to contest those matters.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities 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 Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

52.04 RECLAMATION OF ABANDONED VEHICLES. Prior to driving an abandoned vehicle away from the premises, a person who received (or who is reclaiming the vehicle on behalf of a person who received) notice under Section 80.03 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in Section 321.20B of the *Code of Iowa*.

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

52.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all fees, fines, and costs associated with the impoundment, including those established by the storage facility; whereupon the vehicle shall be released.

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

52.06 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))

52.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a Certificate of Authority. The applicant shall then apply to the County Treasurer for a Junking Certificate and shall surrender the Certificate of Authority in lieu of the Certificate of Title.

(Code of Iowa, Sec. 321.90(2)(e))

52.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 90 days and then shall be deposited in the State Road Use Tax

Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

52.09 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(3)(a))

52.10 BIDS FOR TOWING AND STORAGE. At least once each year, the Council may take bids from privately owned garages for schedules of fees for towing and storing impounded vehicles or vehicles taken up because of illegal parking. Thereupon, the Council shall designate such bidders as shall be geographically located to tow and store such vehicles at a minimum cost in the event City facilities are not available for towing or storing vehicles to be impounded. The Police Chief is hereby authorized to direct the public garage designated by the Council as aforesaid and located nearest to such vehicle to tow and store the same until disposed of as provided in this chapter. Such garage is hereby authorized to retain such vehicle until the fees for towing and storage on the basis of its bid shall be paid.

52.11 ABATEMENT. Whenever the City Administrator or other authorized municipal officer finds that a violation of this chapter has occurred, such officer has the authority to determine, on a case-by-case basis, whether to utilize the nuisance abatement procedure described in Section 50.05 or the municipal infraction procedure referred to in Section 50.06.

[The next page is 425]

CHAPTER 53

LITTER CONTROL

53.01 Definitions
53.02 Throwing or Distributing Handbills in Public Places
53.03 Posting Notices Prohibited
53.04 Placing Handbills on Vehicles
53.05 Depositing Handbills on Vacant Premises
53.06 Distributing Handbill at Private Premises
53.07 Owner to Maintain Premises Free of Litter
53.08 Clearing of Litter from Private Property by City
53.09 Abatement

53.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Commercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature which:

A. Advertises for sale any merchandise, product, commodity, or thing; or

B. Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

C. Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit, but the terms of this clause do not apply where an admission is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind when the same is held, given, or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety, and good order; provided, nothing in this clause shall be deemed to authorize the holding, giving, or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of the State or under any ordinance of the City; or

D. While containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of person so engaged as advertiser or distributor.

2. "Litter" means any decomposable or non-decomposable solid or other waste material.

3. "Noncommercial handbill" means any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the preceding definitions of a commercial handbill or newspaper.

4. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

5. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

53.02 THROWING OR DISTRIBUTING HANDBILLS IN PUBLIC PLACES.

1. No person shall throw or deposit, or cause to be thrown or deposited, any commercial or non-commercial handbill in or upon any sidewalk, street, or other public place within the City.

2. If handbills become deposited upon any public place, the person distributing or causing distribution of such handbills shall remove them the same day.

53.03 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole, shade tree upon any public property, or public structure or building, except as may be authorized or required by law.

53.04 PLACING HANDBILLS ON VEHICLES. No person shall place any commercial or noncommercial handbill in or upon any vehicle not owned or controlled by said person.

53.05 DEPOSITING HANDBILLS ON VACANT PREMISES. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises, whether owned by such person or not, which are temporarily or continuously uninhabited or vacant. Nothing herein provided shall prevent the owner or person in control of such property from properly and securely storing such materials thereon.

53.06 DISTRIBUTING HANDBILL AT PRIVATE PREMISES.

1. No person shall throw, deposit, or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises.

2. However, in cases of inhabited premises which are not posted, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

3. The provisions of this section do not apply to the distribution of mail by the United States or to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

53.07 OWNER TO MAINTAIN PREMISES FREE OF LITTER. The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, this section does not prohibit the storage of litter in authorized private receptacles for collection.

53.08 CLEARING OF LITTER FROM PRIVATE PROPERTY BY CITY.

1. Notice to Remove. The City Administrator is hereby authorized and empowered to notify the owner of any open or vacant private property within the City or the agent of such owner to properly dispose of litter located on such owner's property. Such notice shall be by certified mail addressed to the owner at their last known address.

2. Action Upon Noncompliance. Upon the failure, neglect, or refusal of any owner or agent so notified, to properly dispose of litter within a time set by the City Administrator, after receipt of written notice provided for in Subsection 1 of this section, or within this set time after the date of such notice, in the event the notice is returned to the City because of inability to make delivery thereof, provided the notice was properly addressed to the last known address of such owner or agent, the City Administrator is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the City.

3. Assessment and Allocation of Costs. When the City has affected the removal of litter from private property or has paid for its removal, the actual cost of removal of such litter shall be paid by the owner of the property and shall be assessed against such property and collected by the City in any manner provided by law.

53.09 ABATEMENT. Whenever the City Administrator or other authorized municipal officer finds that a violation of this chapter has occurred, such officer has the authority to determine, on a case-by-case basis, whether to utilize the nuisance abatement procedure described in Section 50.05 or the municipal infraction procedure referred to in Section 50.06.

[The next page is 433]

CHAPTER 54

NOISE CONTROL

54.01 Purpose
54.02 Scope of Regulations
54.03 Definitions
54.04 Noise Disturbance Prohibited
54.05 Sounds Not Allowed
54.06 Measurement of Noise and Sound
54.07 Noise Permit for Sound Equipment
54.08 Other Laws and Ordinances
54.09 Penalty
54.10 Abatement

54.01 PURPOSE. The purpose of this chapter is to establish standards for the control of noise pollution in the City thereby protecting the public's health, safety, and general welfare.

54.02 SCOPE OF REGULATIONS. This chapter applies to the control of all noise originating within the limits of the City, except in the following cases:

1. A State or federal agency has adopted a different standard or rule than prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable; or

2. The Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the City.

3. The emission of sound for the purpose of alerting persons to the existence of an emergency.

4. The emission of sound in the legal discharge of weapons or in fireworks displays licensed by the City.

5. Emergency work or repair work performed by or for governmental entities or public service utilities.

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

1. "Application" means the application submitted to the City requesting a Noise Permit.

2. "Decibel" means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound and is denoted as dB.

3. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.

4. "Emergency work" means any work performed for the purpose of alleviating or resolving an emergency.

5. "Motor vehicle" means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. Motor vehicles include most motorcycles.

6. "Motorcycle" means any two or three-wheeled motor vehicle.

7. “Noise” means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

8. “Noise disturbance” means those sounds defined as “sounds not allowed” in Section 54.05.

9. “Person” means, unless used in such a manner to denote only a human being, any firm, partnership, domestic or foreign corporation, association, joint stock company, trust, or other association or entity, City, County, or State government and subdivisions or agencies thereof, and the federal government and subdivisions and agencies thereof.

10. “Powered model vehicle” means any self-propelled, airborne, waterborne, or landborne model plane, vessel, or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

11. “Public right-of-way” means the traveled portion of any street or alley or similar place which is owned or controlled by the City or other governmental entity.

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

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

14. “Residential property” means any property zoned R-1, R-2, R-3, or MH.

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

16. “Sound equipment” means any loudspeaker, amplifier, or other device for producing, reproducing, or amplifying sound; except, however, sound equipment does not include: sirens and other equipment used to alert persons to the existence of an emergency; equipment used by law enforcement and other public safety officials in the performance of their official duties; church carillons, bells, or chimes; mobile radio or telephone signaling devices; or automobile and truck radios or players of recorded music used and intended for the use and enjoyment of the occupants of the vehicle, provided that the sound emitted from the vehicle does not exceed 70 dB(A) or 80 dB(C) when measured at a distance of 25 feet.

17. “Sound level meter” means an instrument, including a microphone, amplifier, output meter, and weighting networks, that is sensitive to pressure fluctuations. The output meter reads sound pressure level in decibels when properly calibrated and the instrument is of Type 2 or better as specified in American National Standards Institute, USA standard specification for general purpose sound level meters (S1.4-1971), and preferred center frequencies for acoustical measurements (S1.6-1960), or any subsequent nationally adopted standard superseding such standards. A “weighted sound level” or “sound level” means the sound pressure level in decibels as measured

on a sound level meter using the A weighting network. The level so read shall be designated as dB(A) or dBA. C "weighted sound level" or "sound level" means the sound pressure level in decibels as measured on a sound level meter using the C weighting network. The level so read shall be designated as dB(C) or dBC.

18. "Weeknight" means the days of the week Sunday through Thursday evening.

19. "Weekend night" means the days of the week Friday or Saturday evening.

54.04 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make, continue, cause, or allow any noise disturbance within the City.

54.05 SOUNDS NOT ALLOWED.

1. Noise Disturbance Described. The term "noise disturbance" means any of the following sounds:

A. Alarm Testing. The sound emitted by the intentional sounding outdoors of any privately owned fire alarm, burglar alarm, siren, whistle, or similar stationary emergency signaling device for the essential testing of such device, when conducted between the hours of 5:00 p.m. and 8:00 a.m.

B. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck, or compact disc player, or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants while such vehicle is on the public right-of-way, provided that the sound emitted from the vehicle does not exceed 70 dB(A) or 80 dB(C) when measured at a distance of 25 feet.

C. Chain Saws. The sound emitted by motor powered tree trimming equipment operated between the hours of 10:00 p.m. and 7:00 a.m.

D. Construction Noise. The sound made by privately owned and operated tools or equipment in erection, demolition, excavation, drilling, or other such construction work which is received between the hours of 10:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

E. Engine Brake Noise. The sound made by an engine brake device of a diesel engine truck.

F. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing a motor vehicle or recreational vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

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

H. Lawn and Garden Equipment. The sound emitted by motor powered, muffler equipped lawn and garden equipment operated between the hours of 10:00 p.m. and 7:00 a.m.

I. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing, or handling of boxes, crates, containers, building

materials, trash cans, containers, receptacles, or dumpsters which are received at the real property boundary of residential property between the hours of 10:00 p.m. and 7:00 a.m.

J. Musical Instruments. The sound made by a drum, horn, reed, or string instrument, or other musical instrument or device which is received between the hours of 10:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

K. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system is defective or has been modified by the installation of a muffler cutout or bypass.

L. Off-Road Motorcycle and Recreational Vehicle Noise. The sound made on private or City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of 10:00 p.m. and 7:00 a.m. at the real property boundary of residential property, provided; however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a "noise disturbance" unless made so by some provisions of this section.

M. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m.at the real property boundary of residential property.

N. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right-of-way during any racing event or time trial, whether organized or unorganized.

O. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle.

P. Selling by "Hawking" or "Barking." The sound of selling by shout or outcry when made within the area of the City-zoned residential or commercial.

Q. Sound Equipment. The sound made by sound equipment (see definition of sound equipment) operated upon the public right-of-way, in any building, or upon any public or private premises shall be classified as a noise disturbance if either:

(1) The sound is in excess of the maximum permitted levels shown in the chart below when measured at the property boundary, or anywhere within the property, of a receiving land use, or if in a park, approximately 200 feet from the source of the sound or, when a complaint is received, at the nearest boundary of the property where the complaining party was disturbed; or

(2) The sound is of a nature that cannot accurately be measured by a sound level meter, and such sound is disturbing to a reasonable human being of normal sensitivities.

R. Maximum Permitted Levels.

Zoning District	Time	Receiving Land Use Maximum dB Permitted
R-1, R-2, R-3, MH	Between 7:00 a.m. and 10:00 p.m.	65 dBA or 70 dBC
	Between 10:00 p.m. and 7:00 a.m.	55 dBA or 60 dBC
UC, CC	All times	70 dBA or 75 dBC
Industrial	All times	70 dBA or 80 dBC

2. Noise Permit. Sound in excess of the maximum permitted levels shall not be a noise disturbance if such sound is emitted in accordance with a Noise Permit issued by the City.

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

54.07 NOISE PERMIT FOR SOUND EQUIPMENT. No person shall use, operate, or cause to be used or operated any sound equipment upon the public right-of-way, in any building, or upon any public or private premises, if the sound is in excess of the maximum permitted levels under Section 54.05(1)(Q) when measured at the property boundary, or anywhere within the property, of a receiving land use, or if in a park, approximately 200 feet from the source of the sound or, when a complaint is received, at the nearest boundary of the property where the complaining party was disturbed, unless such person has obtained a Noise Permit in accordance with this section, and the actual use or operation of such sound equipment is not inconsistent with statements made in the application, the conditions imposed in the Sound Equipment Permit, or the limitations specified in Paragraph D of this section. Any person who operates any sound equipment in violation of this section, and without obtaining a Noise Permit, shall be subject to having the event stopped or the sound equipment turned off or reduced to a legal level. Such remedy shall be in addition to any other rights and remedies of the City. A Noise Permit shall not be transferable, and it shall be conspicuously displayed on or adjacent to the sound equipment.

1. Application for Permit. Applications for Noise Permits shall be made in writing to the Clerk or Deputy City Clerk and shall contain the following information:

A. Name, address, phone numbers, and signature of applicant.

B. The purpose for which the sound equipment will be used.

C. The location where the sound equipment will be used.

D. The number of days of use and proposed hours of operation of the sound equipment.

E. A general description of the sound equipment, including the license number of any motor vehicle upon which it is to be operated.

F. Any other information as may be required by the Clerk or Deputy City Clerk.

2. Permit Fee.

A. A permit fee shall be paid by the applicant for the permit, with the amount of the fee determined in accordance with an established Fee Schedule, which Fee Schedule may be modified from time to time with the approval of the Council.

B. No fee is required for a Noise Permit issued to City, State, or federal government or any governmental subdivision or agency thereof.

3. Issuance of Permit.

A. Applications for Noise Permits shall be reviewed and then issued or denied by either the Clerk or their designee. The applicant may appeal the denial of a Noise Permit by filing a written request for appeal with the Clerk or their designee, requesting that the denial of the application for Noise Permit be reviewed by the Council at the Council's next regularly scheduled meeting. The City shall consider the following factors in connection with the issuance of a Noise Permit:

(1) The location of the proposed event or source of the noise in relation to surrounding residences or businesses;

(2) The time of day and day of the week for which the permit is requested. The City shall not issue a Noise Permit that extends after 10:00 p.m. on a weeknight or after 11:00 p.m. on a weekend night or on the night of a holiday, except in unusual circumstances, for good cause shown and approval by the Council;

(3) The duration of the activity for which the Noise Permit is requested;

(4) Whether the applicant has misrepresented any information in past Noise Permits;

(5) Whether the applicant has failed to comply with conditions set forth in prior Noise Permits that have been issued by the City;

(6) Whether the applicant has had prior violations of the noise ordinance; and

(7) Such other considerations as are advisable to protect the health, welfare, and quality of life for the residents and businesses of the City.

B. No person or establishment may be granted a Noise Permit between the hours of 9:00 p.m. and 7:00 a.m. more often than three times in any calendar year, except in unusual circumstances, for good cause shown and approval by the Council.

4. Limitations.

A. Any other language in this section to the contrary notwithstanding, a Sound Equipment Permit shall not be issued if:

(1) The sound to be emitted by the sound equipment is other than human speech or music.

(2) The sound equipment is to be operated for commercial advertising purposes or for the purpose of attracting the attention of the public to any building, structure, or vehicle for monetary profit or for the purpose of advertising such sound equipment.

(3) The sound to be emitted by the sound equipment would be a noise disturbance under Section 54.05 (other than Subsection Q of said section).

B. A Noise Permit issued in violation of this subsection is void and of no force and effect.

5. Conditions.

A. When a permit is issued pursuant to this chapter, the sound levels listed in the following table shall be the maximum levels permitted when measured at the edge of the City street, the alley right-of-way, or the property line, whichever reasonably appears to be nearest to the source of the sound, or if in a park, approximately 200 feet from the source of the sound:

(1) Maximum Permitted Levels.

Zoning District	**Time**	**Receiving Land Use Maximum dB Permitted**
R-1, R-2, R-3, MH	Between 7:00 a.m. and 11:00 p.m.	70 dBA or 80 dBC
UC, CC	All times	75 dBA or 85 dBC
LI	All times	75 dBA or 85 dBC

B. When granting the permit, the Council may impose lower sound level limits based upon the location and length of the proposed event for which the permit is requested, and the Council or City staff may impose other reasonable conditions and requirements to be met or fulfilled by the Noise Permit holder preliminary to or at the time of the use or operation of the sound equipment. Such conditions shall be those necessary or advisable to protect the health, welfare, and quality of life of the residents of the City and may include, without limitation, restrictions on the time of day the sound equipment can be used or operated and restrictions on the length of time that the sound equipment may be used or operated. The permit holder shall be responsible for monitoring the level of sound to ensure that the conditions of the permit are not violated.

6. Noncompliance by Permittee; City Authority. Should the person holding a permit not attentively observe all limitations and restrictions found in this chapter and in the Noise Permit, the City authorities shall be authorized to stop such permitted event or to turn the sound equipment off or reduce it to the level authorized by the Noise Permit.

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

54.09 PENALTY. Unless another penalty is expressly provided by this chapter for any particular provision or section, any person violating any provision of this chapter or any rule or regulation adopted herein by reference shall, upon conviction, be subject to the standard penalty as stated in Section 1.14.

54.10 ABATEMENT. Whenever the City Administrator or other authorized municipal officer finds that a violation of this chapter has occurred, such officer has the authority to determine, on a case-by-case basis, whether to utilize the nuisance abatement procedure described in Section 50.05 or the municipal infraction procedure referred to in Section 50.06

[The next page is 445]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Pets; Types and Numbers of Animals Permitted
55.03 Enclosures
55.04 Offenses
55.05 Seizure and Impounding
55.06 Notice to Owner of Licensed Animal
55.07 Disposition of Impounded Animals
55.08 Animal Neglect
55.09 Livestock Neglect
55.10 Livestock
55.11 Annual License Required
55.12 Exceptions to License Requirements
55.13 Applications for Licenses
55.14 License Fees
55.15 Delinquency
55.16 Delinquent Fee List
55.17 Public Hearing; Delinquent Fee List
55.18 Vaccination of Dogs and Cats
55.19 Issuance of License and License Tag
55.20 Display of License Tag
55.21 Duplicate License Tag
55.22 Duplicate License Tag Fee
55.23 Transfer of License or License Tag Prohibited
55.24 Expiration of License and License Tag
55.25 Trapping
55.26 Quarantine for a Minimum Period of 14 Days
55.27 Requirements When an Animal Has Bitten a Person
55.28 Report of Person Whose Animal Has Been Bitten
55.29 Fees
55.30 Pet Awards Prohibited
55.31 Indoor Pets
55.32 Feeding Deer
55.33 Designation of Urban Deer Management Zone
55.34 Community Cats
55.35 Tampering With Rabies Vaccination Tag
55.36 Tampering with an Electronic Handling Device
55.37 False Representation of Service Animal
55.38 Penalty

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

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

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

2. "Animal" means a living creature, not human, and being either domestic or wild.

3. "Animal Control Officer" means a person designated by the City to perform such duties involving animal control and to have authority to enforce this chapter and Chapter 56.

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

(Code of Iowa, Sec. 162.2(3))

5. "At large" means an animal off the premises of the owner or competent person. The owner or competent person of an animal is strictly liable to control such animal as required herein. The penalty for violation of this chapter is imposed without regard to any wrongful intention of the violator. The owner or competent person of an animal shall prevent said animal from running at large within the corporate limits of the City. An animal properly licensed as required by this chapter shall not be deemed at large if such animal:

A. Is confined within a suitable enclosure under the control of a competent person; or

B. Is confined within a motor vehicle under the control of a competent person; or

C. Is under the control of a person competent to restrain and control the animal, either by leash, cord, chain, or other similar restraint not more than 10 feet in length, or properly restrained within a motor vehicle; or

D. Is properly housed in a veterinary hospital or licensed kennel, pet shop, or City designated animal pound; or

E. Is a public safety canine performing official duties; or

F. Is in a designated off-leash area of a City dog park provided the person in charge of the dog is at all times abiding by the rules and regulations of the off-leash area.

6. "Business" means any enterprise relating to any of the following:
(Code of Iowa, Sec. 717E.1(2))

A. The sale or offer for sale of goods or services.

B. A recruitment for employment or membership in an organization.

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

7. "Cat" means all members of the Felis Domestica species, male or female, altered or unaltered.

8. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.
(Code of Iowa, Sec. 717B.1(5))

9. "Community cat" means a cat that meets the requirements of Section 55.34(1).

10. "Competent person" means a person of such maturity as to be able to exercise control over a dog or cat.

11. "Dog" means and includes members of the canine species, male or female, altered or unaltered.

12. "Fair" means any of the following:
(Code of Iowa, Sec. 717E.1(3))

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

B. An exhibition of agricultural or manufactured products.

C. An event for operation of amusement rides or devices or concession booths.

13. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
(Code of Iowa, Sec. 717E.1(4))

14. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.
(Code of Iowa, Sec. 717.1(4))

15. "Owner" means any person or persons, firm, association, or corporation, owning, keeping, paying the license for, or harboring a dog, cat, horse, or other animal; provided, however, that owner does not include persons providing food, water, shelter, or veterinary care to a community cat.

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

(Code of Iowa, Sec. 717E.1(5))

17. "Pound" means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

(Code of Iowa, Sec. 162.2(20))

18. "Research facility" means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

(Code of Iowa, Sec. 162.2(24))

19. "Veterinarian" means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.

(Code of Iowa, Sec. 717B.1(17))

55.02 PETS; TYPES AND NUMBERS OF ANIMALS PERMITTED.

1. The following animals may be owned as pets under the following conditions:

A. Dogs not to exceed three in number and cats not to exceed three in number at or in a residential dwelling, which dogs and cats are owned and maintained in compliance with the provisions of this chapter relating to such animals.

B. Rabbits not to exceed three in number at or in a residential dwelling, and which must be maintained in a hutch or other type of enclosure.

C. Domestic poultry and fowl; that is, poultry and fowl ordinarily raised for production of eggs or meat, not to exceed 10 in number considered together at or in a residential dwelling and maintained at all times in a pen or coup.

D. Vietnamese Pot Bellied Pigs, Asian Pot Bellied Pigs, or pot bellied pigs not to exceed two in number of the types considered together at or in a residential dwelling.

E. The young produced by any pets permitted herein may be maintained at or in a residential dwelling with the parent animals for a period of approximately eight weeks, but in no case longer than 10 weeks.

2. Notwithstanding Subsection 1(C), the following are not allowed:

A. Roosters or male domestic poultry;

B. Geese or members of the Anser and Branta genera;

C. Guineafowl;

D. Peacocks or peafowl.

55.03 ENCLOSURES. Any enclosure, pen, coup, or hutch in which pets are maintained shall be cleaned at least every other day or more often if deemed advisable or necessary by a health officer or the Police Chief. Said enclosures shall be located at a minimum of 25 feet from a neighboring residential dwelling. No animal may be enclosed or fenced in the front yard of a residential dwelling.

55.04 OFFENSES. No owner of any dog, cat, or other animal (or any person having control or responsibility thereof) shall:

1. Allow or permit such animal to run at large.

2. Allow or permit such animal to urinate or defecate on private property without the express consent of the owner of such property.

3. Fail to pick up and dispose of any feces deposited by such animal on private property without the express consent of the owner thereof.

4. Allow or permit such animal to urinate or defecate on public property, including, but not limited to, public property located between curb lines of public streets and adjacent property lines and public property located within parks.

5. Fail to pick up and dispose of any feces deposited by such animal on public property.

6. Allow or permit such animal to pass upon public or private property thereby causing damages to or interference with such property.

7. Allow or permit a dog to cause annoyance or disturbance to any person by frequent and habitual barking, howling, or yelping.

8. Allow or permit an animal to run after, chase, or attack any person or vehicle or place any person in reasonable fear of attack or injury.

9. Keep, shelter, or harbor any unlicensed animal.

10. Keep, shelter, or harbor any animal without a license tag attached to its collar or harness as required by this chapter.

11. Keep, shelter, or harbor any animal with an expired license tag attached to its collar or harness.

12. Keep, shelter, or harbor any unvaccinated animal.

13. Keep, shelter, or harbor any animal without a vaccination tag attached to its collar or harness as required by law.

14. Keep, shelter, or harbor any animal with an expired vaccination tag attached to its collar or harness.

15. Allow or permit such animal to destroy or damage property other than the property of the owner of such animal.

16. Abandon any animal within the corporate limits of the City; provided, however, that a community cat may be released at the location where it was captured.

17. The penalty for violation of this chapter is imposed without regard to any wrongful intention of the violator, owner, or competent person.

55.05 SEIZURE AND IMPOUNDING. Any animal found in violation of the provisions of Section 55.04 of this chapter may be seized and impounded. It is the duty of the Police Chief, duly appointed Animal Control Officer of the City, or designee, to cause any animal in violation of this chapter to be seized and impounded.

55.06 NOTICE TO OWNER OF LICENSED ANIMAL. The owner of any animal licensed in accordance with the provisions of this chapter which has been seized and impounded shall be notified of such seizure and impounding within three business days thereof by such person and in such manner as the Council may direct by resolution.

55.07 DISPOSITION OF IMPOUNDED ANIMALS. The owner of any animal licensed in accordance with the provisions of this chapter which has been seized and impounded may obtain the release of such animal by the payment of the City Administrative Fee as outlined in the current Fee Schedule. Once the release is issued, the owner of such animal will be required to redeem the animal from the animal pound or shelter, which may include payment of additional fees to the pound or shelter caring for the animal. Any such animal not redeemed by the owner within seven days of the date impounded may be disposed of in accordance with law. The owner of any unlicensed or unvaccinated animal which has been seized and impounded may obtain the release of such animal, upon proper identification of the owner and the animal, by obtaining a license for such animal in accordance with the provisions of this chapter and by the payment of the administrative fee and any animal pound or shelter costs.

55.08 ANIMAL NEGLECT.

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

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

A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this section.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

2. This section does not apply to any of the following:

A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A(1) of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to:

a. State licensee or registrant operating pursuant to Sections 162.10A(2)(a) or (2)(b) of the *Code of Iowa*; or

b. A permittee operating pursuant to Section 162.10A(2)(c) of the *Code of Iowa*.

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

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

(Code of Iowa, Sec. 717.2)

55.10 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.

55.11 ANNUAL LICENSE REQUIRED. The owners of all dogs and cats six months of age or older shall annually obtain a license therefor as hereinafter provided. Every owner of a dog or cat under the age of six months on January 1 of any year shall apply for an annual license for each such dog or cat on or before the first day of the first month after each such dog or cat reaches the age of six months.

55.12 EXCEPTIONS TO LICENSE REQUIREMENTS. The requirements for licensing dogs and cats shall not apply to such animals if one or more of the following situations apply:

1. In transit through the City only.
2. First 30 days of residency by the owner.
3. Housed in a veterinary hospital.
4. Housed temporarily in an animal grooming shop.
5. Housed in a licensed kennel.
6. Housed in an accredited institution for research purposes only.

55.13 APPLICATIONS FOR LICENSES. The owner of a dog or cat for which a license is required shall, on the first day of January of each year, apply to the Police Department for a license for each such dog or cat. Applications made on or after April 1 of that year shall be delinquent. An application for an annual license for a dog or cat which is under the age of six months on January 1 of any year shall be delinquent if made on or after the first day of the sixth month after such dog or cat reaches the age of six months. Applications for licenses shall be in writing on forms provided by the Police Department, and shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, the address at which the owner regularly keeps, shelters, or harbors the dog or cat, and the name and address of the owner, and be signed by said owner. Such application shall also state the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog or cat shall be re-vaccinated. Such application shall be accompanied by a Certificate of Vaccination issued by a licensed veterinarian showing that the dog or cat described in the application has been vaccinated against rabies.

55.14 LICENSE FEES. An application for an annual license for a dog or cat shall be accompanied by the required annual license fee. Information regarding license fees is located in Section 55.29.

55.15 DELINQUENCY. All license fees for dogs and cats become delinquent on April 1 of the year in which they are due and payable, and a penalty of double the original license fee shall be added to each unpaid license on and after said date.

55.16 DELINQUENT FEE LIST. The Clerk may, in the Clerk's discretion or at the request of the Council, prepare and submit to the Council a delinquent fee list which shall show the following:

1. The name and residence address of each person within the City who is the owner of a dog or cat which is not licensed in accordance with the provisions of this chapter for the current year and the amount of fees, including delinquency fees, due from such owner.
2. The name and residence address of each person within the City who licensed a dog or cat in accordance with the provisions of this chapter in the previous year which is not licensed in accordance with the provisions of this chapter for the current year and the amount of fees, including delinquency fees, due from such owner.

The foregoing list shall not include any owner who, upon the death, transfer of ownership, or disappearance for more than 60 days of any dog or cat, within 10 days of such event, notifies the Clerk of such event and surrenders the license and license tag, if available, issued to the owner.

55.17 PUBLIC HEARING; DELINQUENT FEE LIST. Upon submission of the delinquent fee list to the Council, the Council may, by resolution, fix a date, time, and place for a public hearing thereon. The Clerk shall mail a written notice of such public hearing to the owner of each dog or cat which appears on such list by ordinary mail at least 10 days prior to the date fixed for such public hearing. The notice shall state the date, time, and place of such public hearing and shall advise the owner of each dog or cat which appears on such list that they may appear at such hearing and show cause why the delinquent fees shown thereon for each such dog or cat should not be paid. After such public hearing, the Council shall enforce such fees by any legal means permitted under this Code or release obligation for payment of fees if sufficient cause is shown for nonpayment.

55.18 VACCINATION OF DOGS AND CATS. All dogs and cats over the age of six months shall be inoculated for the prevention of rabies and the owner of said animal shall obtain and return a certificate as evidence of said anti-rabies inoculation by a licensed veterinarian. The certificate shall show that the vaccination is current at the effective date of the dog or cat license.

55.19 ISSUANCE OF LICENSE AND LICENSE TAG. Upon receipt of an application for an annual license for a dog or cat in accordance with the provisions of this chapter, and the payment of all fees applicable thereto, the Clerk shall issue to the owner a dog or cat license and a dog or cat license tag. The dog or cat license shall state the number of the license, the name and residence address of the owner of the dog or cat, and a description of the dog or cat. The dog or cat license tag shall state the number of the license and the year for which it is issued.

55.20 DISPLAY OF LICENSE TAG. Upon issuance of the license tag, the owner of the dog or cat shall cause the license tag to be securely fastened to a collar or harness which shall be worn by the dog or cat for which the license tag is issued.

55.21 DUPLICATE LICENSE TAG. Upon proof by the owner of a dog or cat that a license tag issued to such dog or cat in accordance with the provisions of this chapter has been lost or destroyed, the Clerk shall issue a duplicate tag to the owner of such dog or cat. Such duplicate license tag shall be securely fastened to the collar or harness of such dog or cat in accordance with the provisions of this chapter.

55.22 DUPLICATE LICENSE TAG FEE. See the Fee Schedule.

55.23 TRANSFER OF LICENSE OR LICENSE TAG PROHIBITED. No license or license tag issued in accordance with the provisions of this chapter shall be transferred to any other person or dog or cat.

55.24 EXPIRATION OF LICENSE AND LICENSE TAG. All licenses and license tags issued in accordance with the provisions of this chapter shall expire on January 1 of the year following the year for which they were issued.

55.25 TRAPPING. No person shall place, set, or use any trap, snare, or similar device designed or intended to take, kill, maim, wound, ensnare, trap, or capture any animal, fowl, or wildlife on any public or private property within the City. In any proceeding charging a

violation of this section, a prima facie presumption shall exist that the owner of said trap, snare, or other device was the person placing or setting the same. This section shall not apply to the following:

1. Any trap or device designed for the primary use of capturing mice, insects, rats, gophers, moles, or aquatic rodents which are trapped in water.

2. Any box trap or other trap which complies with State law, designed to keep the animal alive and unharmed in the trap in compliance with Section 55.34.

3. Any trapping by a governmental unit to capture animals which are creating a public nuisance or for the protection of public or private property.

55.26 QUARANTINE FOR A MINIMUM PERIOD OF 14 DAYS.

1. It shall be the duty of the Police Chief to order the owner of any animal which has bitten a person or another animal, or of any animal suspected of being infected with rabies, to confine such animal for a period of 14 days at the animal shelter, a veterinary clinic, or a registered kennel.

2. Notwithstanding Subsection 1 of this section, the Animal Control Officer may allow a dog or cat or any other animal to remain in quarantine for that period on the property of the owner so long as the dog or cat of any other animal is confined there and is out of contact with members of the public or other animals during the quarantine period when the dog, cat, or any other animal:

A. Has a current certificate of inoculation for rabies; and

B. Is properly licensed, in the case of dogs; and

C. Has properly displayed all required tags; and

D. Has not previously bitten a person; and

E. The owner has suitable and secure quarters in which to isolate the animal.

Home quarantine shall not be allowed where there is a reasonable belief that the animal's condition, or circumstances including consideration of the nature or severity of the bite, require observation at the animal shelter, a veterinary clinic, or a registered kennel, or where the animal does not remain in quarantine in the manner prescribed by the Animal Control Officer for the 14-day period.

55.27 REQUIREMENTS WHEN AN ANIMAL HAS BITTEN A PERSON. The owner of an animal shall report at once to the Police Department the fact that their animal has bitten or attacked a person or domestic animal, and all persons having knowledge of such facts shall report the same to the Police Department. Any person claiming to have been bitten by an animal must go in person to the Police Department or to a physician to show proof of a bite if deemed necessary by the Director of Public Health. Children claiming to have been bitten by an animal must be accompanied by a parent or legal guardian.

55.28 REPORT OF PERSON WHOSE ANIMAL HAS BEEN BITTEN. Every person owning or having possession, custody, or control of an animal which is known to have been bitten by an animal infected with rabies shall immediately report this fact to the Police Department and shall have the exposed animal placed in isolation and quarantine as provided by this Code.

55.29 FEES. Fees for animal control activities are adopted by the Council periodically by resolution. Information about these fees is available from the Clerk's office or the Police Department.

55.30 PET AWARDS PROHIBITED. As used in this section "pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including, but not limited to, a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

   A. A prize for participating in a game.

   B. A prize for participating in a fair.

   C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

   D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care, or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:

   A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

   B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting, or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.31 INDOOR PETS. Gerbils, hamsters, guinea pigs, mice, birds, non-venomous and non-constrictive snakes, and other similar animals normally maintained as pets in an enclosure inside a residential dwelling are not subject to the provisions of this chapter unless provided otherwise by this Code.

55.32 FEEDING DEER. No person shall place or allow any feeding device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of attracting or feeding deer. Pursuant to this chapter, a rebuttable presumption is created that the placement of fruit, grain, mineral, plant, salt, vegetable, or other material ("feed materials") in a drop feeder, deer feeder kit, automatic feeder, any natural object (hollowed tree stump, etc.) or similar device ("feeding device") regardless of the height of the fruit, grain, mineral, plant, salt, vegetable, or other material is for the purpose of feeding deer.

1. Each property owner or occupant of the property shall have the duty to remove any feed materials placed on the owner's property in violation of this chapter. Failure to remove feed materials within 24 hours after notice from the City shall constitute a violation of this chapter.

2. Each property owner or occupant of the property shall have the duty to remove any feeding device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner or occupant may modify a

feeding device or make other changes to the property that prevent deer from having access to or feeding from the feeding device. Failure to remove such a feeding device or to make such modifications within 24 hours after notice from the City shall constitute a violation of this chapter.

3. Exceptions.

A. Naturally Growing Materials. This chapter does not apply to naturally growing materials, including, but not limited to, fruit, grain, nuts, seeds, and vegetables.

B. Planted Materials. This chapter does not apply to planted materials growing in gardens, as standing crops, or in a wildlife food plot.

C. Stored Crops. This chapter does not apply to stored crops, provided that the stored crop is not intentionally made available to deer.

D. Incidental Spills. This chapter does not apply to spills of seed materials intended for planting or to crop materials that have been harvested if the spills are incidental to normal agricultural operations and such materials are not intentionally made available to deer.

4. Penalties. Any person violating any provision of this section shall be subject to a civil penalty for a municipal infraction as set forth in Chapter 3. Each day a municipal infraction occurs or is permitted to exist constitutes a separate offense.

55.33 DESIGNATION OF URBAN DEER MANAGEMENT ZONE. The City has determined an area within the City limits in which there is an overabundance of deer, and this area has been designated by the Iowa Department of Natural Resources (DNR) to be recommended as an Urban Deer Management Zone (DMZ) as provided by DNR regulations. The Council may annually approve the DMZ.

1. Definitions.

A. "Antlerless" means a deer with no visible forked antler.

B. "Arrow" means ass defined and limited by the State Department of Natural Resources (herein DNR).

C. "Bow" means as defined and limited by the DNR.

D. "Elevated stand" means a manufactured stand (tree stand, ladder stand, tripod, quadpod, or tower) with a safety harness and of sufficient height to place the hunter's feet at least six vertical feet above the highest ground elevation within 25 yards of the stand location, to ensure a downward thrust of an arrow when released by the bow.

E. "Incentive license" means a document issued by the DNR to allow a bow hunter to harvest an antlered deer as a designated buck incentive program award recipient based on the previous year's antlerless deer program in the City.

F. "Offal" means entrails, which include most internal organs other than muscle or bones.

G. "Urban Deer Hunt Waiver form" means a document issued by and filed with the City to affirm that the hunter has received written authorization to hunt on private property from the owner or manager thereof.

H. "Urban Antlerless Deer License" means a document issued by the DNR in addition to the small game hunting license to allow a bow hunter to harvest an antlerless deer under the City's special bow hunting program.

I. "Usable portion" means any part of a deer that is customarily processed for human consumption.

J. "Viscera" means the internal organs within the chest.

2. Hunting Prohibited. No person shall engage in any hunting activity within the City limits using a rifle, shotgun, bow and arrow, or any other means, either on public or private property, except licensed bow hunters may hunt deer in the designated urban deer management zone as specifically set forth in Section 55.33(3).

3. Special Bow Hunt.

A. A special bow hunt is hereby established and shall be administered by the City in accordance with the provisions of this chapter. The dates and boundaries for the special bow hunt shall be set annually by Council resolution and may be more restrictive than the dates and boundaries designated by the DNR.

B. A Hunt Administrator will be designated by the City Administrator, and the Hunt Administrator will participate in the County Deer Task Force to facilitate continuity in the City program and other metro communities.

C. Hunters wishing to participate in the special bow hunt shall first obtain an Urban Antlerless Deer License or Incentive License after completing the following and providing proof thereof:

(1) An annual archery proficiency test; and,

(2) A bow hunter safety education course conducted by the DNR or approved equivalent.

D. Each hunter participating in the program must apply for and receive a Windsor Heights DMZ Hunting Permit ("permit") from the City. Permits are valid for one hunting season. In order to receive the permit, a hunter must present a valid State Special Urban Deer License.

E. The City hereby reserves the right to approve the content and operation of the test or safety course and to reject any that is not compliant with DNR requirements or recommendations or otherwise deemed acceptable to the Police Department.

F. All hunters must check in with the Police Department, via phone or by calling dispatch after hours prior to conducting any hunt, and they must check out following the hunt.

G. Hunting shall be prohibited within the following protection zones, and no shot shall be directed into or across any protection zone:

(1) Within 200 feet of any home or building not owned by the hunter, unless the owner thereof waives the prohibition via the Windsor Heights Urban Deer Hunt Waiver Form filed with the City; and,

(2) Within 100 feet of a recreation trail or street.

H. Shots shall only be taken from an elevated stand; provided that a hunter with a DNR-qualifying disability may request permission to use an alternative; shall be restricted to a distance of not more than 75 feet; and shall clearly have a downward angle intended to minimize travel of an arrow beyond the 75 feet maximum shot distance. A diligent attempt shall be made to retrieve every arrow.

I. Elevated stands shall be non-permanent, and no screw-in steps shall be allowed.

J. Legal weaponry for all hunting allowed by this chapter shall be restricted to only bows and arrows, except that a hunter with a qualifying disability, as defined by DNR regulations, may be allowed to use a crossbow and bolts as defined and limited by the DNR.

K. Bows and arrows shall be cased while traveling to and from every hunting site.

L. Hunters shall comply with all requirements established by the DNR and by this Code, including, but not limited to, this chapter.

M. Hunters shall complete and file any Urban Deer Hunt Waiver forms prior to hunting.

N. Hunting shall be prohibited on all City-owned property unless expressly approved by the Council after review and recommendation by the City Administrator or designee.

O. The minimum age for participation in the special bow hunt shall be 18 years old on the day of the hunt.

P. Each hunter shall carry all of the following on their person at all times while hunting:

(1) A DNR license for the special bow hunt to hunt within the boundaries designated by the City; and,

(2) The approved City of Windsor Heights Urban Deer Management Zone Bow Hunting Permit; and,

(3) A permission form for the current year; and,

(4) A map verifying the property being hunted is located within the hunt area as designated by the Council.

Q. A hunter shall not leave a usable portion of the deer in the field. In the case of private property, viscera and other offal shall be disposed of in a manner that is acceptable to the property owner and in a location that is not visible from adjoining public or private property.

R. No hunter shall drive or operate any vehicle on any portion of the City's trail system in conjunction with any hunt or the recovery or retrieval of any deer harvested.

S. A hunter shall not dispose any animal part on any public property, including roadside ditches and disposal containers located along any trail or public property.

T. Hunters shall take all deer meat to be processed or given to charity.

U. Hunters shall report the number of deer harvested to the Police Department following each hunt. The Police Department will log the harvest for verification purposes.

V. If a mortally wounded deer travels off the property being hunted onto other property, the hunter shall attempt to notify the other property owner, or in the case of City property, the Police Department, before entering the other property to recover the mortally wounded deer. The hunter shall also notify the Police Department should they be unable to locate a wounded deer.

W. Hunters are strongly encouraged to utilize a safety harness conforming to current Treestand Manufacturers Association (TMA) or American Society for Testing and Materials (ASTM) standards, in the manner and method proscribed by the manufacturer, at all times while occupying an elevated stand.

X. Any confrontations between hunters and other members of the public shall be immediately reported to the Police Department.

55.34 COMMUNITY CATS.

1. Requirements. Cats shall be allowed as free roaming community cats if all the following are met.

A. No person owns the cat.

B. Cat has been spayed or neutered, vaccinated, ear tipped, microchipped, and determined sufficiently healthy to be a free roaming cat by a veterinarian.

2. A property owner or such property owner's designee may utilize any box trap or other trap which complies with State law, designed to keep the animal alive and unharmed in the trap, if all the following are met.

A. The trap has been set on property owner's property with the explicit intent of trapping a cat and meeting the requirements of Section 55.25.

B. The property owner or their designee has set the trap after calling a veterinarian subject to an existing agreement with the City and scheduled an appointment with the veterinarian to neuter or spay, treat or otherwise evaluate the trapped cat.

C. The property owner or their designee checks the trap every 12 hours and releases any unintentionally trapped animals unharmed at the trap location.

D. The property owner or their designee promptly transports the trapped cat to a veterinarian subject to an existing agreement with the City.

E. The property owner pays any pre-determined fees to the veterinarian under the applicable City-veterinarian agreement.

F. The property owner or their designee promptly picks up and returns the cat to the trap location after the cat receives veterinary treatment, subject to the veterinarian determining returning the cat is sufficiently healthy and appropriate to return the cat.

55.35 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful to tamper with a rabies vaccination tag.

(Code of Iowa, Sec. 351.45)

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:

   A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.

   B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.

2. This section shall not apply to an act taken by any of the following:

   A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

   B. A peace officer.

   C. A veterinarian.

   D. An animal shelter or pound.

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

(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:

   A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.

   B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.

2. This section shall not apply to an act taken by any of the following:

   A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

   B. A peace officer.

   C. A veterinarian.

   D. An animal shelter or pound.

55.37 FALSE REPRESENTATION OF SERVICE ANIMAL. A person commits the offense of intentional misrepresentation of an animal as a service animal or a service-animal-in-training if, for the purpose of obtaining any of the rights or privileges set forth in State or federal law, the person intentionally misrepresents an animal in one's possession as one's service animal or service-animal-in-training or a person with a disability's service animal or service-animal-in-training whom the person is assisting by controlling.

(Code of Iowa, Sec. 216C.11(3)(B))

55.38 PENALTY. Unless another penalty is expressly provided by this Code for violation of any particular provision, section, or chapter, any person failing to perform a duty required by

this Code or otherwise violating any provision of this Code or any rule or regulation adopted herein by reference shall, upon conviction, be guilty of a simple misdemeanor subject to a fine as set by the Fee Schedule adopted by resolution. If a court appearance is requested, the person shall, upon conviction, be subject to a fine of at least $105.00 but not to exceed $855.00.

1. Violations of this chapter are simple misdemeanors and may also be punishable as municipal infractions. Police officers, animal control officers, and the Police Chief designees shall have the authority to issue citations for violations of this chapter and shall have the discretion to enforce this chapter as either a simple misdemeanor or municipal infraction. Multiple violations of this chapter may be considered by the City for purposes of approving licenses or for any other requirements that are subject to approval by the City.

2. Failure of a hunter to comply with Section 55.33 or other City or State regulation may subject the hunter to revocation of their permit. The Police Chief or designee shall report all incidences of noncompliance to the County Deer Task Force.

[The next page is 465]

CHAPTER 56

DANGEROUS DOGS

56.01 Definitions
56.02 Determination of a Potentially Dangerous Dog
56.03 Determination of a Dangerous Dog
56.04 Exceptions
56.05 Potentially Dangerous Dog or Dangerous Dog Declaration Requirements
56.06 Registration or Licensing Requirements
56.07 Responsibility of Owners

56.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Dangerous dog" means any dog that:

   A. Without provocation, causes a serious injury to a person or domestic animal; or

   B. Has been designated as a potentially dangerous dog and engages in behavior that poses a threat to public safety as described in Subsection 9 of this section or serious injury as defined in Subsection 10 of this section.

2. "Euthanized" means the same meaning as defined under Section 162.2(13) of the *Code of Iowa*.

3. "Impound" means to take a potentially dangerous dog or dangerous dog into custody by the Animal Control Authority or the organization authorized to enforce this chapter.

4. "Owner" means any person possessing, harboring, keeping, having an interest in, or having control or custody of a dog.

5. "Pet safety course" means a course, preapproved by the Animal Control Officer or the organization authorized to enforce this chapter, consisting of, but not limited to, instruction in safe management of dogs.

6. "Potentially dangerous dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:

   A. Without provocation, causes an injury to a person or domestic animal on public or private property that is less severe than a serious injury;

   B. Without provocation, chases or approaches a person, a domestic animal or a wheeled conveyance upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or has a known propensity, tendency, or disposition to attack, causing injury or otherwise threatening the safety of humans or domestic animals;

   C. Without provocation, acts in a highly aggressive manner within a fenced yard or enclosure and appears, to a reasonable adult, able to jump over or escape;

   D. Acts in a highly aggressive manner within a fenced yard or enclosure and appears, to a reasonable person, able to jump over or escape.

7. "Proper enclosure" of potentially dangerous and dangerous dogs requires:

A. Potentially dangerous and dangerous dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section or caged for transportation. Also, when a dangerous dog is not securely confined or caged for transportation, a muzzle shall be placed on the dog.

B. A pen or kennel must have secure sides and a secure top attached to the sides or, in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure. A pen or kennel must have a secure bottom, floor, or foundation attached to the sides of the pen or kennel, or the sides of the pen or kennel must be embedded in the ground no less than two feet so as to prevent digging under the sides of the pen or kennel by the confined potentially dangerous dog or dangerous dog.

C. All pens, kennels, or structures erected to house a potentially dangerous dog or dangerous dog must comply with all zoning and building regulations in their jurisdictions. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

D. All pens or kennels designed, constructed, or used to confine potentially dangerous and dangerous dogs must be locked with a key or combination lock when such animals are within the structure.

E. No potentially dangerous or dangerous dog may be kept on a porch, patio, or in any part of a house or structure that would allow the potentially dangerous or dangerous dog to exit such building on its own volition.

F. No potentially dangerous dog or dangerous dog may be tied or leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

8. "Proper leashing" of potentially dangerous dogs and dangerous dogs requires that potentially dangerous dogs and dangerous dogs shall not be permitted to go outside a proper enclosure as defined in Subsection 7 of this section unless secured on a leash no longer than six feet in length that is under the actual physical control of a person 18 years of age or older who has the physical ability to restrain the dog. Also, when a dangerous dog is not securely confined or caged for transportation, a muzzle shall be placed on the dog.

9. "Provocation" means that the threat, injury, or damage caused by the dog was sustained by a person who, at the time, was willfully trespassing upon the premises occupied by the owner of the dog, or the person was tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.

10. "Serious injury" means any physical injury incurred by a dog that results in a major bone fracture, muscle tears, disfiguring lacerations, or requires multiple sutures or corrective surgery or cosmetic surgery.

56.02 DETERMINATION OF A POTENTIALLY DANGEROUS DOG.

1. After an investigation, the Animal Control Officer or the organization authorized to enforce this chapter, is authorized to make a declaration that a dog is potentially dangerous based on the factors listed in Section 56.01(6) and will notify the

owner of the dog in writing by certified mail, or personal service, or posting in a conspicuous place at the last known residence of the owner of the dog.

2. Upon notice, the owner of the dog declared potentially dangerous may, within three business days, file a written appeal in this jurisdiction seeking review of the declaration. However, during an appeal, the owner of the dog shall properly confine or properly leash the dog and provide proof of liability insurance in accordance with this chapter.

3. If a written appeal is filed, the owner of the dog declared dangerous will be given no less than three days' (business or otherwise) written notice of the date, time, and location of the hearing.

4. Following notice to the owner of the dog, if the Animal Control Officer or the organization authorized to enforce this chapter has reasonable cause to believe that a dog is a potentially dangerous dog which may pose a threat to public safety, or if the owner has not provided proof of liability insurance, the dog will be impounded, pending disposition of an appeal or until the dog owner has fulfilled the requirements of a potentially dangerous dog declaration. However, if after 30 days from the date of notice, the owner of the dog has not completed the requirements, the dog shall be impounded and destroyed in a humane manner.

5. Any dog that is under impoundment or quarantine at the animal shelter and is declared a potentially dangerous dog will not be returned to the owner pending disposition of an appeal or until the owner completes all of the requirements of Subsection 56.06(1), except Paragraph H of said subsection, which must be completed within 30 days from the date of notice.

6. The owner of the dog shall be liable for the costs of impounding and keeping of the dog.

56.03 DETERMINATION OF A DANGEROUS DOG.

1. After an investigation, the Animal Control Officer or the organization authorized to enforce this chapter is authorized to make a declaration that a dog is dangerous based on the factors listed in Subsection 56.01(1) and will notify the owner of the dog in writing by certified mail, or personal service, or posting in a conspicuous place at the last known residence of the owner of the dog.

2. Upon notice, the owner of the dog declared dangerous may, within three business days, file a written appeal seeking review of the determination. However, during an appeal, the owner of the dog shall properly confine or properly leash the dog and show proof of liability insurance in accordance with this chapter.

3. If a written appeal is filed, the owner of the dog declared dangerous will be given no less than three days' (business or otherwise) written notice of the date, time, and location of the hearing.

4. Following notice to the owner of the dog, if the Animal Control Officer or the organization authorized to enforce this chapter has reasonable cause to believe the dog to be a dangerous dog which may pose a threat to public safety, or if the owner has not provided proof of liability insurance, the dog will be impounded, pending disposition of an appeal or until the dog owner has fulfilled the requirements of a dangerous dog declaration. However, if after 30 days after the date of notice, the owner of the dog has not completed the requirements, the dog shall be impounded and destroyed in a humane manner.

5. Any dog that is under impoundment or quarantine at the animal shelter and is declared a dangerous dog will not be returned to the owner pending disposition of an appeal or until the owner completes all of the requirements of Subsection 56.06(1), except Paragraph H of said subsection, which must be completed within 30 days from the date of notice, and Subsection 56.06(2).

6. The owner of the dog shall be liable for the costs of impounding and keeping the dog if the dog is determined to be a dangerous dog.

56.04 EXCEPTIONS. No dog shall be declared a dangerous or potentially dangerous dog if:

1. The dog was used by a law enforcement or military official for legitimate law enforcement or military purposes.

2. The dog was protecting or defending a human, offspring, or another animal, within the immediate vicinity of the dog, from an attack or assault.

56.05 POTENTIALLY DANGEROUS DOG OR DANGEROUS DOG DECLARATION REQUIREMENTS.

1. If the Animal Control Officer or the organization authorized to enforce this chapter declares that a dog is a potentially dangerous dog, the owner of the dog shall comply with the provisions of Sections 56.01(6) and (7) and Section 56.06(1).

2. If the Animal Control Officer or the organization authorized to enforce this chapter declares that a dog is a dangerous dog, the owner of the dog shall comply with the provisions of Sections 56.01(6) and (7) and Section 56.06.

3. Following notice to the owner of the dog, if the Animal Control Officer or the organization authorized to enforce this chapter has reasonable cause to believe the dog to be a dangerous dog and may pose a threat to public safety, or if the owner has not provided proof of liability insurance, the dog will be impounded, pending disposition of an appeal or until the dog owner has fulfilled the requirements of a dangerous dog declaration. However, if after 30 days from the date of notice, the owner of the dog has not completed the requirements, the dog shall be euthanized.

4. If, after the notice of declaration, a potentially dangerous dog or a dangerous dog is found improperly confined or leashed more than once, the dog will be impounded and euthanized.

5. If, after the notice of declaration, the liability insurance on a potentially dangerous dog or dangerous dog is found to be invalid more than twice, the dog will be impounded and euthanized.

6. The owner of the dog shall be liable for the costs of impounding and keeping the potentially dangerous dog or dangerous dog whether or not the dog is reclaimed.

56.06 REGISTRATION OR LICENSING REQUIREMENTS.

1. The Animal Control Officer or the organization authorized to enforce this chapter will issue a Certificate of Registration or license to the owner of a potentially dangerous dog, if the owner establishes to the satisfaction of the Animal Control Officer or other authority that:

A. The owner of the potentially dangerous dog is 18 years of age or older and has the physical ability to control the dog.

B. The owner of the potentially dangerous dog presents a Certificate of Insurance issued by an insurance company licensed to do business in this State, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of $1,000,000.00 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or their agents, in the keeping or owning of such potentially dangerous dog. The certificate shall require notice to the City, in conformity with general City standards for Certificates of Insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this subsection. If a Certificate of Insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to 30 days subsequent to the determination that a dog is potentially dangerous; however, if, after 30 days, a Certificate of Insurance or a policy has not been submitted or the insurance coverage is cancelled, the dog shall be deemed unregistered or unlicensed and subject to immediate impoundment.

C. The potentially dangerous dog has a current rabies vaccination at the owner's expense.

D. The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said potentially dangerous dog as described in Section 56.01(7).

E. The potentially dangerous dog has been spayed or neutered at the owner's expense.

F. The potentially dangerous dog has been implanted with a microchip containing owner identification information at the owner's expense. The microchip information must be registered with the Animal Control Officer or the organization authorized to enforce this chapter.

G. The potentially dangerous dog has been photographed for identification purposes.

H. The potentially dangerous dog owner shall satisfactorily complete a pet safety course preapproved by the Animal Control Officer at the dog owner's expense.

2. The Animal Control Officer or the organization authorized to enforce this chapter will issue a Certificate of Registration or license to the owner of a dangerous dog if the owner, in addition to satisfying the requirements for registration or licensing of a potentially dangerous dog pursuant to Subsection 1 of this section, establishes to the satisfaction of the Animal Control authority that:

A. The owner will maintain the dangerous dog exclusively on the owner's property except for medical treatment or examination.

B. The owner of the dangerous dog has posted on the premises a clearly visible written warning sign that there is a dangerous dog on the property with a conspicuous warning symbol that informs children of the presence of a dangerous dog. The sign shall be very visible from the public roadway or 50 feet, whichever is less.

3. If any dog previously determined to be a potentially dangerous dog has not exhibited any of the behaviors specified in Section 56.01(6) within 12 months since the date of the potentially dangerous dog determination, then that dog is eligible for a review of the determination with the potential for lifting the requirements of this section; provided, however, that same dog may again be declared a dangerous or potentially dangerous dog if it again exhibits any of the specified behaviors. Such a review shall be completed by a review committee appointed by the Council consisting of a minimum of three people including a member of the public, a dog professional, and an Animal Control Director or their designee.

56.07 RESPONSIBILITY OF OWNERS. It is unlawful to:

1. Keep a dog determined to be dangerous or potentially dangerous without a valid Certificate of Registration issued under Section 56.06.

2. Permit a potentially dangerous dog to be outside a proper enclosure unless the potentially dangerous dog is properly leashed as defined in Section 56.01.

3. Fail to maintain a dangerous dog exclusively on the owner's property as required, except for medical treatment or examination, or permit a dangerous dog to be outside of proper confinement without being properly leashed and muzzled or caged for transportation. When removed from the owner's property for medical treatment or examination, the dangerous dog shall be caged or under the control of a responsible person as defined in Section 56.01, muzzled and restrained with a substantial leash not exceeding six feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or obscure its vision or interfere with its respiration but shall prevent it from biting any human being or animal.

4. Permit a dangerous or potentially dangerous dog to be tied or leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

5. Fail to notify law enforcement or the Animal Control Officer immediately in person or by telephone upon escape if a dangerous or potentially dangerous dog is on the loose, is unconfined, has attacked another domestic animal, or has attacked a human being.

6. Fail to notify, within three business days, the Animal Control Officer or the organization authorized to enforce this chapter of a change of address or telephone number of the owner of the dangerous or potentially dangerous dog.

7. Fail to notify, within three business days, the Animal Control Officer or the organization authorized to enforce this chapter if the dangerous or potentially dangerous dog has died and the whereabouts of the dead dog.

8. Fail to notify, within one business day, the Animal Control Officer or the organization authorized to enforce this chapter with the name, address, and telephone number of a new owner of the dangerous or potentially dangerous dog if the dog has been sold or has been given away.

9. Fail to surrender a dangerous dog or potentially dangerous dog to the Animal Control Officer or the organization authorized to enforce this chapter for impoundment and confinement, pending a disposition of the case when there is a reason to believe that the dangerous dog or potentially dangerous dog may pose a threat to public safety.

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[The next page is 477]

CHAPTER 57

ILLEGAL OR DANGEROUS ANIMALS

57.01 Definitions
57.02 Keeping of Illegal Animals Prohibited
57.03 Seizure, Impoundment, and Disposition of Illegal Animals
57.04 Exemption
57.05 Keeping of Dangerous Animals Prohibited
57.06 Seizure, Impoundment, and Disposition of Dangerous Animals

57.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this chapter, have the meanings in this section:

1. "Illegal animal" means:

   A. 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, maiming, or causing disease among, human beings or domestic animals and having known tendencies as a species to do so;

   B. Any animal declared to be illegal by the Board of Health or the Mayor;

   C. The following animals which shall be deemed to be illegal animals per se:

      (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;

      (2) Wolves, coyotes, and foxes;

      (3) Badgers, wolverines, weasels, skunks, and mink;

      (4) Raccoons;

      (5) Bears;

      (6) Monkeys and chimpanzees;

      (7) Bats;

      (8) Alligators and crocodiles;

      (9) Elephants;

      (10) Tarantula spiders and scorpions;

      (11) Snakes that are venomous or constrictors;

      (12) Gila monsters;

      (13) Apes, baboons, and macaques;

      (14) Opossums

2. "Dangerous animal" means any animal, except for an illegal animal per se, as listed above, that has bitten or clawed a person or persons without provocation while

running at large, or any animal that has exhibited vicious propensities in present or past conduct, including any animal which:

A. Has bitten a person or persons on two separate occasions within a 12-month period;

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

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

D. Has attacked or bitten any domestic animal or fowl on two separate occasions within a 12-month period; or

E. Has been found to possess such a propensity by a majority of the Council, after notice and hearing.

57.02 KEEPING OF ILLEGAL ANIMALS PROHIBITED. No person shall own, keep, shelter, or harbor any illegal animal or act as a temporary custodian for such animal, or keep for any other purpose or in any other capacity within the City any illegal animal, except in the following circumstances:

1. The keeping of illegal 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 illegal animals for exhibition to the public by a circus, carnival, exhibit, or show.

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

4. The keeping of illegal animals by a wildlife rescue organization with appropriate permits from the Iowa Department of Natural Resources.

5. Any illegal 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. Any illegal animal exempted pursuant to Section 57.04.

57.03 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF ILLEGAL ANIMALS.

1. In the event that an illegal animal is found at large and unattended upon public property, 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 Police Chief or the Chief's designee, be destroyed. The City shall be under no duty to attempt the confinement or capture of an illegal animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering, or harboring an illegal animal on premises in the City, the Police Chief 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 an illegal animal in the City, the Police Chief shall order the person named in the complaint safely to remove such animal from the City, permanently place the animal with an organization or group allowed under Section 57.02 to possess illegal animals, or destroy the animal, within three days of the receipt of such order. Such order shall be contained in a notice to

remove the illegal animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the animal and shall be served personally or by certified mail. Such order and notice to remove the illegal animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Police Chief shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical injury or death to any person.

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

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

5. If the City Administrator affirms the action of the Police Chief, the City Administrator shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such illegal animal, remove such animal from the City, permanently place such animal with an organization or group allowed under Section 57.02 to possess illegal 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 Police Chief is not appealed and is not complied with within three days, or the order of the City Administrator, after appeal, is not complied with within three days of its issuance, the Police Chief is authorized to seize and impound such illegal animal or kill the animal if seizure and impoundment is not possible without risk of serious physical injury or death to any person. An animal which is seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the City Administrator was issued has not petitioned the County District Court for a review of said order, the City Administrator shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under Section 57.02 to possess such animals, or destroy such animal in a humane manner. Failure to comply with an order issued pursuant to this chapter shall constitute a misdemeanor offense.

57.04 EXEMPTION.

1. Any person owning or keeping an illegal animal as of February 1, 1985, may obtain an exemption, allowing that person to continue to keep such animal by complying with the provisions of this section.

2. A person owning or keeping an illegal animal as of February 1, 1985, in order to obtain an exemption, must register such animal with the Clerk prior to March 31, 1985. The animal must be re-registered each year subsequent thereto until the animal dies or is otherwise removed from the City.

3. The person shall provide the Clerk with:

A. Their name and address;

B. The address where the animal is kept;

C. A description of the animal;

D. A description of the method of containing or controlling the animal at that location; and

E. Evidence of the existence of a certificate or policy of insurance in an amount not less than $100,000.00, providing liability coverage for all damages or injuries which might arise to any person as a result of the keeping of such animal.

F. Certification from a licensed doctor of veterinary medicine that the animal is healthy and is not infected with rabies or any disease dangerous to humans.

4. As a condition of exemption, the owner or keeper of the illegal animal must sign an agreement, provided by the Clerk, indemnifying the City and agreeing to defend it and hold it harmless from all claims for damages, indemnity, or contributions arising as a result of the keeping or ownership of such animal.

5. All illegal animals, not exempted by the provisions of this section, must be removed from the City prior to March 31, 1985.

6. If any owner or keeper of an animal exempted pursuant to the provision of this section shall fail to re-register the animal in any subsequent year, the City may proceed to have the animal removed or destroyed pursuant to this chapter.

57.05 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall own, keep, shelter, or harbor for any reason within the City a dangerous animal so defined herein, 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 or fixed enclosure at all times, and any guard dog found at large may be processed as a dangerous animal pursuant to the provisions of Sections 57.05 and 57.06. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording “guard dog,” “dangerous dog,” or words of similar import, and the owner of such premises shall inform the Police Chief that a guard dog is on duty at said premises.

57.06 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS ANIMALS.

1. The Police Chief, in their discretion or upon receipt of a complaint alleging that a particular animal is a dangerous animal as defined herein, may initiate proceedings to declare such animal a dangerous animal. If the owner contests said designation, a hearing on the matter shall be conducted by the City Administrator. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours’ written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of dangerousness. The notice shall also set forth that if the animal is determined to be

dangerous, the owner may be required to license and confine the animal as required by this chapter. 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.

2. If, after hearing, the City Administrator determines an animal is a dangerous animal, or a dangerous animal held in violation of this chapter as set out in the notice of hearing, the City Administrator shall order the person owning, sheltering, harboring, or keeping the animal to license and confine the animal as required by this chapter, or remove it from the City. 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 days of its issuance, the City Administrator is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the person against whom the order of the City Administrator was issued has not appealed such order to the Council, or has not complied with the order, the City Administrator shall cause the animal or animals to be destroyed.

3. The order to license, confine, or remove a dangerous animal from the City issued by the City Administrator may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the City Administrator within three days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the City Administrator.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Administrator. The hearing of such appeal shall be scheduled within 20 days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the City Administrator. Such determination shall be contained in a written decision and shall be filed with the City Administrator within three days after the hearing, or any continued session thereof. The hearing shall be confined to the record made before the City Administrator, the arguments of the parties or their representatives, any additional evidence which was not available at the time of the hearing before the City Administrator, and any other information the Council deems necessary.

5. If the Council affirms the action of the City Administrator, the Council shall order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous animal shall license and confine said animal as required by this chapter or remove such animal from the City. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice set out in Subsection 1 of this section. If the original order of the City Administrator is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Police Chief is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the person against whom the decision and order of the City Administrator or the Council was issued has not petitioned the County District Court for a review of said order or has not complied with the order, the City Administrator shall cause the animal to be destroyed in a humane manner.

6. Failure to comply with an order of the City Administrator issued pursuant hereto and not appealed, or of the Council after appeal, is a misdemeanor.

7. Any animal which is alleged to be dangerous, and which is under impoundment or quarantine at the animal shelter 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 dangerous. If the animal is not determined to be dangerous, all costs shall be paid by the City, except costs attributable to initial confinement prior to notice or costs of any required quarantine which shall nonetheless be paid by the owner.

[The next page is 507]

CHAPTER 60

TRAFFIC AND VEHICLES

60.01 ADMINISTRATION OF TRAFFIC CODE
60.02 TRAFFIC CONTROL DEVICES
60.03 GENERAL TRAFFIC REGULATIONS
60.04 SPEED REGULATIONS
60.05 TURNING REGULATIONS
60.06 STOP OR YIELD REQUIRED
60.07 LOAD AND WEIGHT RESTRICTIONS
60.08 PEDESTRIANS
60.09 ONE-WAY TRAFFIC
60.10 PARKING REGULATIONS
60.11 TRAFFIC CODE ENFORCEMENT PROCEDURES
60.12 ALL-TERRAIN VEHICLES AND SNOWMOBILES
60.13 BICYCLE REGULATIONS

TITLE. This chapter may be known and cited as the "Windsor Heights Traffic Code" and is referred to in this chapter as the "Traffic Code."

SUBCHAPTER 60.01

ADMINISTRATION OF TRAFFIC CODE

60.01.01 Definitions
60.01.02 Administration and Enforcement
60.01.03 Power to Direct Traffic
60.01.04 Reports of Traffic Accidents
60.01.05 Police Officer's Authority
60.01.06 Obedience to Police Officers
60.01.07 Parades Regulated

60.01.01 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 hereby 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:

1. "Business District" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

(Code of Iowa, Sec. 321.1(7))

2. "MPH" means miles per hour.

3. "Parade" means any march or procession of 10 or more persons, with or without vehicles, organized for marching or moving on the streets, sidewalks, or other public ways in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

4. "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.

5. "Pedestrian" means a person afoot or a person using a pedestrian conveyance.

(Code of Iowa, Sec. 321.1(51))

6. "Pedestrian conveyance" means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.

(Code of Iowa, Sec. 321.1(51)(A))

7. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

8. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.

(Code of Iowa, Sec. 321.1(63))

9. "Road work zone" means the portion of a highway which is identified by posted or moving signs as the site of construction, maintenance, survey, or utility work. The zone starts upon meeting the first sign identifying the zone and continues until a posted or moving sign indicates that the work zone has ended.

10. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.

(Code of Iowa, Sec. 321.1(70))

11. "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.

12. "Stop" means when required, the complete cessation of movement.

13. "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 police officer or traffic control sign or signal.

14. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.

(Code of Iowa, Sec. 321.1(78))

15. "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.

16. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway. Vehicle does not include:

A. Any device moved by human power, including a low-speed electric bicycle.

B. Any device used exclusively upon stationary rails or tracks.

C. Any personal delivery device operated pursuant to Chapter 321O of the *Code of Iowa*.

D. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property, but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.

E. Any steering axle, dolly, auxiliary axle, or other integral part of another vehicle which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.

(Code of Iowa, Section 321.1(90))

60.01.02 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 officer and other officials as provided by this Code.

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

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

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

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

(Code of Iowa, Sec. 321.273)

60.01.05 POLICE OFFICER'S AUTHORITY. A police 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 police 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)

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

(Code of Iowa, Sec. 321.229)

60.01.07 PARADES REGULATED. No person shall conduct, cause, or participate in any parade on any street, except as provided herein:

1. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor or Police Chief.

2. Permit Application. The permit application must be made in writing and shall state:

A. The date and time for the parade;

B. The name, address, signature, and telephone number of the applicant;

C. The route of the parade

D. The approximate number of persons and vehicles in the parade; and

E. Funeral processions are exempted from obtaining a Parade Permit.

3. Restrictions. The City shall issue the applicant a permit unless:

A. The Mayor or Police Chief determines that the time, route, or size of the parade will disrupt the use of any street or sidewalk that is ordinarily subject to significant congestion or traffic;

B. Another Parade Permit has already been issued for that day; or

C. The proposed parade violates any other governing law or ordinance.

4. Hours. No permit shall be granted for a parade through a residential district, except during the hours of 8:00 a.m. to 8:00 p.m., unless a waiver is granted by the Council.

5. Fee. No fee shall be charged for the Parade Permit.

6. Parade Conditions. The Mayor or Police Chief is empowered to prescribe the conditions governing any parade, procession, or march, including the designation of the routes to be followed, held, or proposed to be held on any public street, sidewalks, or other public ways. Should the public interest so require, they may, for limited periods of time, prohibit or restrict parking on any street where unrestricted or restricted parking is permitted under the provisions of this Code. Signs shall be placed, police officers stationed, or other steps taken to inform the public of special regulations. The Mayor or Police Chief may approve of other vehicles such as golf carts, all-terrain vehicles, or off-road utility sports vehicles to be operated on or in close proximity to the parade route, immediately before, during, and after the event.

7. Parade Control. 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, other City employees, or designated parade officials.

[The next page is 515]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.02

TRAFFIC CONTROL DEVICES

60.02.01 Installation of Traffic Control Devices
60.02.02 Compliance
60.02.03 Crosswalks
60.02.04 Traffic Lanes
60.02.05 Standards

60.02.01 INSTALLATION OF TRAFFIC CONTROL DEVICES. The City Administrator or designee shall cause to be placed and maintained traffic control devices when and as required under this traffic code or under State law. The Police Chief shall cause to be placed emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide, or warn traffic. The City Administrator shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

60.02.02 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 police officer, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 and 321.231A of the *Code of Iowa*.

(Code of Iowa, Sec. 321.256)

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

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

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

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

60.02.05 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)

[The next page is 521]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.03

GENERAL TRAFFIC REGULATIONS

60.03.01 Violation of Regulations
60.03.02 Boarding or Alighting from Moving Vehicle
60.03.03 Vehicles on Sidewalks
60.03.04 Clinging to Vehicle
60.03.05 Climbing on Vehicles Prohibited
60.03.06 Quiet Zones
60.03.07 Pushcarts and Animals on Roadway
60.03.08 Excessive Tire Noise
60.03.09 Dumping of Snow
60.03.10 Obstructing View at Intersections

60.03.01 VIOLATION OF REGULATIONS. Any person who willfully fails or refuses to comply with any lawful order of a police officer or direction of a Fire Department officer during a fire, or who fails to abide by the 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 321.25 – Application for registration and title; cards attached.
3. Section 321.32 – Registration card, carried and exhibited; exception.
4. Section 321.34 – Plates or validation sticker furnished.
5. Section 321.37 – Display of plates.
6. Section 321.38 – Plates, method of attaching, imitations prohibited.
7. Section 321.41 – Change of address or name or fuel type.
8. Section 321.45 – Title transfer.
9. Section 321.46 – New title upon transfer of ownership.
10. Section 321.47 – Transfers by operation of law.
11. Section 321.48 – Vehicles acquired for resale.
12. Section 321.52 – Out of state sales.
13. Section 321.54 – Registration and financial liability coverage required of certain nonresident carriers.
14. Section 321.55 – Registration and financial liability coverage required for certain vehicles owned or operated by nonresidents.
15. Section 321.57 – Operation under special plates.
16. Section 321.62 – Records required for special plates.
17. Section 321.67 – Certificate of title must be executed.
18. Section 321.78 – Injuring or tampering with vehicle.
19. Section 321.79 – Intent to injure.
20. Section 321.91 – Limitation on liability; penalty for abandonment.

21. Section 321.98 – Operation without registration.

22. Section 321.99 – Fraudulent use of registration.

23. Section 321.104 – Penal offenses against title law.

24. Section 321.115 – Antique vehicles; model year plates permitted.

25. Section 321.174 – Operators licensed; operation of commercial vehicles.

26. Section 321.174A – Operation of motor vehicle with expired license.

27. Section 321.180 – Instruction permits, commercial learner's permits, and chauffeur's instruction permits.

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

29. Section 321.193 – Restrictions on licenses; penalty.

30. Section 321.194 – Special minors' restricted license.

31. Section 321.208A – Operation in violation of out-of-service order; penalties.

32. Section 321.216 – Unlawful use of license and nonoperator's identification card; penalty.

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

34. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain tobacco, tobacco products alternative nicotine products, vapor products, or cigarettes.

35. Section 321.218 – Operating without valid driver's license or when disqualified; penalties.

36. Section 321.219 – Permitting unauthorized minor to drive.

37. Section 321.220 – Permitting unauthorized person to drive.

38. Section 321.221 – Employing unlicensed chauffeur.

39. Section 321.222 – Renting motor vehicle to another.

40. Section 321.223 – Driver's license inspection for motor vehicle rental.

41. Section 321.224 – Record kept.

42. Section 321.229 – Obedience to peace officers.

43. Section 321.231 – Authorized emergency vehicles and police bicycles.

44. Section 321.232 – Speed detection jamming devices; penalty.

45. Section 321.234A – All-terrain vehicles, highway use.

46. Section 321.235A – Electric personal assistive mobility devices.

47. Section 321.235B – Low-speed electric bicycles.

48. Section 321.247 – Golf cart operation on City streets.

49. Section 321.257 – Official traffic control signal.

50. Section 321.259 – Unauthorized signs, signals or markings.

51. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.

52. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.

53. Section 321.263 – Information and aid; leaving scene of personal injury accident.

54. Section 321.264 – Striking unattended vehicle.

55. Section 321.265 – Striking fixtures upon a highway.

56. Section 321.266 – Reporting accidents.

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

58. Section 321.276 – Use of electronic communication device while driving; text-messaging.

59. Section 321.277 – Reckless driving.

60. Section 321.277A – Careless driving.

61. Section 321.278 – Drag racing prohibited.

62. Section 321.281 – Actions against bicyclists.

63. Section 321.284 – Open container in motor vehicles, drivers.

64. Section 321.284A – Open container in motor vehicles, passengers.

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

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

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

68. Section 321.298 – Meeting and turning to right.

69. Section 321.299 – Overtaking a vehicle.

70. Section 321.302 – Overtaking and passing.

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

72. Section 321.304 – Prohibited passing.

73. Section 321.305 – One-way roadways and rotary traffic islands.

74. Section 321.306 – Roadways laned for traffic.

75. Section 321.307 – Following too closely.

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

77. Section 321.309 – Towing.

78. Section 321.310 – Towing four-wheel trailers.

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

80. Section 321.313 – Starting parked vehicle.

81. Section 321.314 – When signal required.

82. Section 321.315 – Signal continuous.

83. Section 321.316 – Stopping.

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

85. Section 321.318 – Method of giving hand and arm signals.

86. Section 321.319 – Entering intersections from different highways.

87. Section 321.320 – Left turns; yielding.

88. Section 321.321 – Entering through highways.

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

90. Section 321.323 – Moving vehicle backward on highway.

91. Section 321.323A – Approaching certain stationary vehicles.

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

93. Section 321.324A – Funeral processions.

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

95. Section 321.330 – Use of crosswalks.

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

97. Section 321.333 – Duty of drivers.

98. Section 321.340 – Driving through safety zone.

99. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.

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

101. Section 321.343 – Certain vehicles must stop.

102. Section 321.344 – Heavy equipment at crossing.

103. Section 321.344B – Immediate safety threat; penalty.

104. Section 321.354 – Stopping on traveled way.

105. Section 321.359 – Moving other vehicle.

106. Section 321.362 – Unattended motor vehicle.

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

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

109. Section 321.365 – Coasting prohibited.

110. Section 321.366 – Acts prohibited on fully-controlled access facilities.

111. Section 321.367 – Following fire apparatus.

112. Section 321.368 – Crossing fire hose.

113. Section 321.369 – Putting debris on highway.

114. Section 321.370 – Removing injurious material.

115. Section 321.371 – Clearing up wrecks.

116. Section 321.372 – Discharging pupils, stopping requirements; penalties.

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

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

119. Section 321.382 – Upgrade pulls; minimum speed.

120. Section 321.383 – Exceptions; slow vehicles identified.

121. Section 321.384 – When lighted lamps required.

122. Section 321.385 – Head lamps on motor vehicles.

123. Section 321.386 – Head lamps on motorcycles, motorized bicycles, and all-terrain vehicles.

124. Section 321.387 – Rear lamps.

125. Section 321.388 – Illuminating plates.

126. Section 321.389 – Reflector requirement.

127. Section 321.390 – Reflector requirements.

128. Section 321.392 – Clearance and identification lights.

129. Section 321.393 – Color and mounting.

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

131. Section 321.395 – Lamps on parked vehicles.

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

133. Section 321.402 – Spot lamps.

134. Section 321.403 – Auxiliary driving lamps.

135. Section 321.404 – Signal lamps and signal devices.

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

137. Section 321.405 – Self-illumination.

138. Section 321.406 – Cowl lamps.

139. Section 321.408 – Back-up lamps.

140. Section 321.409 – Mandatory lighting equipment.

141. Section 321.415 – Required usage of lighting devices.

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

143. Section 321.418 – Alternate road-lighting equipment.

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

145. Section 321.420 – Number of lamps lighted.

146. Section 321.421 – Special restrictions on lamps.

147. Section 321.422 – Red light in front, rear lights.

148. Section 321.423 – Flashing lights.

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

150. Section 321.431 – Performance ability.

151. Section 321.432 – Horns and warning devices.

152. Section 321.433 – Sirens, whistles, air horns, and bells prohibited.

153. Section 321.434 – Bicycle sirens or whistles.

154. Section 321.436 – Mufflers, prevention of noise.

155. Section 321.437 – Mirrors.

156. Section 321.438 – Windshields and windows.

157. Section 321.439 – Windshield wipers.

158. Section 321.440 – Restrictions as to tire equipment.

159. Section 321.441 – Metal tires prohibited.

160. Section 321.442 – Projections on wheels.

161. Section 321.444 – Safety glass.

162. Section 321.445 – Safety belts and safety harnesses; use required.

163. Section 321.446 – Child restraint devices.

164. Section 321.449 – Motor carrier safety rules.

165. Section 321.449A – Rail crew transport drivers.

166. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.

167. Section 321.450 – Hazardous materials transportation regulations.

168. Section 321.454 – Width of vehicles.

169. Section 321.455 – Projecting loads on passenger vehicles.

170. Section 321.456 – Height of vehicles.

171. Section 321.457 – Maximum length.

172. Section 321.458 – Loading beyond front.

173. Section 321.460 – Spilling loads on highways.

174. Section 321.461 – Trailers and towed vehicles.

175. Section 321.462 – Drawbars and safety chains.

176. Section 321.463 – Maximum gross weight; exceptions, penalties.

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

178. Section 321.466 – Increased loading capacity; reregistration.

179. Section 321A.32 – Other violations; penalties.

60.03.02 BOARDING OR ALIGHTING FROM MOVING VEHICLE. No person shall board or alight from any vehicle on the public highway while such vehicle is in motion.

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

60.03.04 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 themselves to any vehicle upon a roadway.

60.03.05 CLIMBING ON VEHICLES PROHIBITED. It is unlawful for any person to jump or climb on or hang upon any vehicle on any street, alley, or other public place without the permission of the driver thereof.

60.03.06 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.

60.03.07 PUSHCARTS AND ANIMALS ON ROADWAY. Every person propelling any pushcart or riding an animal upon a roadway and every person driving any animal-drawn vehicle shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which by their nature can have no application.

60.03.08 EXCESSIVE TIRE NOISE. No person shall skid, slide or spin the tires of the motor vehicle such person is operating so as to cause the emission of excessive or unusual noise when the same is not necessary for the safe operation of the vehicle.

60.03.09 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))

60.03.10 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.

[†] **EDITOR'S NOTE:** See Section 40.03.06 of this Code for additional provisions regarding use of City streets.

[The next page is 533]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.04

SPEED REGULATIONS

60.04.01 General
60.04.02 State Code Speed Limits
60.04.03 Parks and Parking Lots
60.04.04 Special Speed Zones
60.04.05 Minimum Speed

60.04.01 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)

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

1. Business District – 20 MPH.
2. Residence or School District – 25 MPH.
3. Suburban District – 45 MPH.

60.04.03 PARKS AND PARKING LOTS. A speed in excess of 15 MPH in any public park, cemetery, or parking lot, unless specifically designated otherwise in this subchapter, is unlawful.

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

60.04.04 SPECIAL SPEED ZONES. In accordance with requirements of the Iowa Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit listed in Section 60.04.02 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)

1. Special 30 MPH Speed Zones. A speed in excess of 30 MPH is unlawful on any of the following designated streets or parts thereof.

   A. 63rd Street. 63rd Street, from the south line of Hickman Avenue to the south line of University Avenue.

   B. University Avenue. University Avenue, from the east corporate limits to the west corporate limits.

2. Special 35 MPH Speed Zones. A speed in excess of 35 MPH is unlawful on any of the following designated streets or parts thereof.

A. 63rd Street. 63rd Street, from the south line of University Avenue to the south corporate limits.

B. 73rd Street. 73rd Street, from the south corporate limits to the south line of University Avenue

3. Interstate Highway 235. Notwithstanding any speed restrictions contained in this Traffic Code, the following speed restrictions apply to Interstate Highway 235 when official signs are erected giving notice thereof:

A. Maximum Speed. No person shall operate a vehicle on said highway at a speed in excess of 60 MPH.

B. Minimum Speed. No person shall operate a vehicle on said highway at a speed less than 40 MPH.

C. Vehicle Capability. No person shall operate any vehicle, implement, or conveyance on said highway which is incapable of obtaining and maintaining a speed of 40 MPH.

60.04.05 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)

[The next page is 539]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.05

TURNING REGULATIONS

60.05.01 Turning at Intersections
60.05.02 U-Turns
60.05.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

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

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

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

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

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

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

60.05.03 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.

[The next page is 545]

CHAPTER 60 - TRAFFIC AND VEHICLES

CHAPTER 60.06

STOP OR YIELD REQUIRED

60.06.01 Stop or Yield
60.06.02 School Stops
60.06.03 Stop Before Crossing Sidewalk
60.06.04 Stop When Traffic Is Obstructed
60.06.05 Pedestrians' Right-Of-Way

60.06.01 STOP OR YIELD. Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Subchapter 60.02 of this Traffic Code.

(Code of Iowa, Sec. 321.256)

60.06.02 SCHOOL STOPS. At any school crossing zone, every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 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)

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

(Code of Iowa, Sec. 321.353)

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

60.06.05 PEDESTRIANS' RIGHT-OF-WAY. 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 so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

[The next page is 551]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.07

LOAD AND WEIGHT RESTRICTIONS

60.07.01 Temporary Embargo
60.07.02 Permits for Excess Size and Weight
60.07.03 Load Limits Upon Certain Streets
60.07.04 Load Limits on Bridges
60.07.05 Truck Routes

60.07.01 TEMPORARY EMBARGO. If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs erected in accordance with Subchapter 60.02 of this Traffic Code.

(Code of Iowa, Sec. 321.471 and 472)

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

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

60.07.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets for which said signs are erected in accordance with Subchapter 60.02 of this Traffic Code.

(Code of Iowa, Sec. 321.473 and 475)

60.07.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Subchapter 60.02 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits. No person shall drive upon said bridge any vehicle weighing, loaded or unloaded, in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

60.07.05 TRUCK ROUTES. When truck routes have been designated in accordance with Subchapter 60.02, no person shall operate any motor truck, as defined below, upon any street or parts of streets not designated as a truck route within this section.

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

   A. Light Delivery Truck, Panel Delivery Truck, Delivery Truck, or Pickup Truck. Any motor vehicle designed to carry not more than 2,000 pounds of merchandise or freight of any kind.

(Code of Iowa, Sec. 321.1)

B. Motor Truck. Every motor vehicle designed primarily for carrying livestock, merchandise, freight of every kind, or over nine persons as passengers, except light delivery trucks, panel delivery trucks, delivery trucks, and pickup trucks.

(Code of Iowa, Sec. 321.1)

2. Truck Routes Designated. Motor trucks, as defined in this subsection, 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 only travel over or upon the following streets within the City and none other.

(Code of Iowa, Sec. 321.473)

A. 63rd Street.

B. 73rd Street - only that portion of 73rd Street south of University Avenue.

C. Hickman Road.

D. Interstate Highway 235.

E. University Avenue.

3. Deliveries Off Truck Route. Any "motor truck," as defined in this subsection, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

4. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any motor truck 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)

5. Exceptions. The provisions of this section do not apply to fire apparatus, school buses, and other motor vehicles owned and operated by a governmental agency, road machinery, implements of husbandry temporarily moved upon a highway, or to a vehicle operated under the terms of a special permit as provided in this title.

[The next page is 557]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.08

PEDESTRIANS

60.08.01 Pedestrians Subject to Traffic Control Signals
60.08.02 Pedestrians on Left
60.08.03 Pedestrian's Right-of-Way
60.08.04 When Pedestrian Shall Yield
60.08.05 Prohibited Crossing
60.08.06 Pedestrians Prohibited on Interstate Highway 235
60.08.07 Pedestrians Soliciting Rides
60.08.08 Pedestrian Safety, Use of Medians

60.08.01 PEDESTRIANS SUBJECT TO TRAFFIC CONTROL SIGNALS. Pedestrians are subject to traffic control signals at intersections, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this subchapter. Any person failing to heed the command of an automatic traffic control signal shall be fined as outlined in the Fee Schedule.

(Code of Iowa, Sec. 321.325)

60.08.02 PEDESTRIANS ON LEFT. Pedestrians shall, at all times when walking on or along a street, walk on the left side of such street.

(Code of Iowa, Sec. 321.326)

60.08.03 PEDESTRIAN'S RIGHT-OF-WAY. 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 so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this subchapter.

(Code of Iowa, Sec. 321.327)

60.08.04 WHEN PEDESTRIAN SHALL YIELD. 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. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway. The foregoing rules of this section have no application under the conditions stated in Section 60.08.05 when pedestrians are prohibited from crossing at certain designated places.

60.08.05 PROHIBITED CROSSING. Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk. No pedestrian shall cross a roadway other than in a crosswalk in any business district.

60.08.06 PEDESTRIANS PROHIBITED ON INTERSTATE HIGHWAY 235. No person shall walk upon, along, or within any fenced portion of the right-of-way of Interstate Highway 235, except persons duly engaged in construction, maintenance, or law enforcement, or persons present for the purpose of leaving, servicing, or removing a disabled vehicle or aiding the injured.

60.08.07 PEDESTRIANS SOLICITING RIDES. No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle. Nothing in this subchapter shall be construed so as to prevent any pedestrian from standing on that portion of the street or roadway not ordinarily used for vehicular traffic for the purpose of soliciting a ride from the driver of any vehicle.

60.08.08 PEDESTRIAN SAFETY, USE OF MEDIANS.

1. The Council makes the following findings and adopts the following statement of purposes of this section:

A. *The National Association of City Transportation Officials Urban Street Design Guide* (2011) states that a median or island should be at least six feet wide where pedestrians are present. This is consistent with the Public Rights-of-Way Accessibility Guidelines promulgated by the United States Access Board which specify that a pedestrian refuge in a street must have a top surface width of six feet, excluding curbs.

B. For streets with a speed limit of 30 MPH or higher, pedestrians are prohibited from standing, sitting, or staying on a median for any purpose other than to cross the street unless the width of the top surface of the median, excluding the curbs is at least six feet wide.

C. Section 60.08.08(B) does not apply to:

(1) Police officers, peace officers, and parking enforcement personnel of the Police Department or employees of the Fire Department while performing official duties of the City.

(2) Employees or contactors for the City or other individuals, authorized by the City to perform construction or maintenance work on City streets or rights-of-way, while performing construction or maintenance work on the street provided that proper street signage is used and streets are blocked off as required by the City.

(3) Any individual responding to an emergency in the street.

[The next page is 563]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.09

ONE-WAY TRAFFIC

60.09.01 ONE-WAY TRAFFIC REQUIRED. When appropriate signs are in place, as provided for in Subchapter 60.02 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

(Code of Iowa, Sec. 321.236(4) and 321.305)

[The next page is 569]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.10

PARKING REGULATIONS

60.10.01 Parking Limited or Controlled
60.10.02 Park Adjacent to Curb
60.10.03 Parking On One-Way Streets
60.10.04 Angle Parking
60.10.05 Manner of Angle Parking
60.10.06 Parking for Certain Purposes Illegal
60.10.07 Parking Prohibited
60.10.08 Persons With Disabilities Parking
60.10.09 Truck Parking Limited
60.10.10 Snow Removal
60.10.11 Temporary No-Parking Signs Near Excavations

60.10.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Subchapter 60.02. 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 police officer.

60.10.02 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 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)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. 66th Street, on the east side, from the north line of University Avenue to a point 100 feet north of the north line of University Avenue, at an angle of 45 degrees.

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

(Code of Iowa, Sec. 321.361)

60.10.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.

2. Repairing. For lubricating, repairing, or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.

3. Advertising. Displaying advertising.

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under this Code.

5. Abandoned. Vehicles defined as "abandoned" pursuant to Section 52.01.

60.10.07 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 police 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. Between the hours of 8:00 a.m. and 4:30 p.m., Monday through Saturday, within 20 feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236(1))

4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358(1))

5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358(2))

6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358(3))

7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358(4))

8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358(6))

9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358(8))

10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358(9))

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

19. Safety Zones. Between a safety zone and the adjacent curb or within 10 feet of points on the curb immediately opposite the ends of a safety zone.

(Code of Iowa, Sec. 321.358(7))

20. Off-Street Parking. On privately owned property or in an area developed as an off-street parking facility, without the consent of the owner, lessee, or person in charge of such privately owned property or facility. A violation of this subsection shall place such 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, said

vehicle may be dealt with pursuant to the procedures in this Code governing abandoned vehicles.

21. Automotive Sales. In an area not zoned for commercial use, parking on public property incidental to the sale of automobiles, as defined in Section 167.07(2)(A).

22. Fire Lanes. Within any no parking fire lane or emergency vehicle lane or within 10 feet of any no parking fire lane or emergency vehicle lane traffic control device.

23. Signs. At any place where authorized signs prohibit stopping, standing, or parking of vehicles.

60.10.08 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:

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

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

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

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

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

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

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

60.10.09 TRUCK PARKING LIMITED. No person shall park on any public roadway in violation of the following regulations.

1. Unattached Trailers. No person shall park or leave any trailer that is not attached to an operable motorized vehicle capable of moving the trailer on any public roadway for more than 24 hours, unless approved by a City official.

2. Attached Trailers. No person shall park any trailer, semitrailer, or other nonmotorized vehicles of any type or size on any public roadway in a residential district, except as herein provided. Such vehicles may park for the purpose of loading,

unloading, or making local deliveries, but in no instance shall such activity exceed a period of 48 hours.

3. Trucks. Motor vehicles of any type that exceed eight feet in height or eight feet in width or 20 feet in length shall not be parked on any street in a residential district, except as herein provided. Such vehicles may park for the purpose of loading, unloading, or making local deliveries, but in no event shall said activity exceed a period of 48 hours.

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

A. Residential Districts. Excepting only when actually making pickups or deliveries to or conducting lawful business at any resident or building within the districts, governed by this section, no person shall park such vehicle (including specifically any motor truck having a freight capacity greater than one ton) on any portion of a street abutting or adjacent to property zoned for R-1, R-1A, R-2, or R-3 occupancy as defined in this Code.

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

C. Livestock. No such vehicle containing livestock shall be parked on any street, alley, or highway for a period of time of more than 30 minutes.

4. In Excess of 48 Hours. Unless otherwise specified in this subchapter, no vehicle shall be parked or remain at the same location upon any public roadway at any time for a period of 48 hours. Vehicles must be moved at least 10 feet in distance during each 48-hour period in order to avoid penalty under this subchapter.

60.10.10 SNOW REMOVAL.

1. Parking Prohibition During Snow Emergency. No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Public Works Director, the Police Chief, or their respective designees. A snow emergency parking ban shall continue from the time of proclamation through 5:00 p.m. the following day. The Public Works Director, Police Chief, or their designees may extend the duration of the parking ban if additional time is needed to clear snow and ice. Notice of any extension shall be posted in the same manner as the original proclamation and shall include the date and time the parking ban will expire. Such parking bans shall apply uniformly.

2. Snow Emergency Proclamation and Notice. The City shall publish information regarding vehicle owners' responsibilities under this section at least annually. When conditions or forecasts warrant, the Public Works Director, Police Chief, or their designees shall proclaim a snow emergency and direct City staff to post the proclamation on the City website or other mass notification platforms. The duration of the emergency may be extended or shortened as warranted by changing conditions.

3. Enforcement and Other Parking Regulations. This section shall not be interpreted to suspend any other parking limitations or restrictions established by this subchapter or by the direction of a police officer. In addition to police officers, code

enforcement officials, and public works employees are authorized to enforce the provisions of this section. These officials may issue citation complaints for violations and may impound vehicles found in violation of this section, as provided in the Code.

60.10.11 TEMPORARY NO-PARKING SIGNS NEAR EXCAVATIONS. No person shall excavate or obstruct any street until the person first reports to the Public Works Director, or authorized City official, of the person's intention to do so; whereupon, it shall be the duty of the Public Works Director, or authorized City official, to authorize the erection of temporary "NO PARKING" signs alongside of or opposite such area if the stopping, standing, or parking of vehicles therein would obstruct traffic.

[The next page is 579]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.11

TRAFFIC CODE ENFORCEMENT PROCEDURES

60.11.01 Arrest or Citation
60.11.02 Scheduled Violations
60.11.03 Parking Violations
60.11.04 Admitted Violations
60.11.05 Fine Collection
60.11.06 Impounding Vehicles

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

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

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

(Code of Iowa, Sec. 805.6 and 321.485)

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

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

60.11.03 PARKING VIOLATIONS. In the event of a parking violation of the provisions of this subchapter regulating the stopping, standing, or parking of vehicles, it shall be the duty of the police officers or other authorized employees of this City to issue a notice of a fine and attach it to the vehicle in a conspicuous place. The notice shall state:

1. The violation involved.

2. The state and license number of the vehicle.

3. The time the ticket was issued.

4. The location (may be described in terms of the hundred block, if applicable).

60.11.04 ADMITTED VIOLATIONS.

1. In all cases of violations of the provisions of this subchapter regulating the stopping, standing, or parking of vehicles, such violations that are admitted may be charged and collected upon a simple notice of a fine, as set forth in this subchapter.

2. Violations that are not paid as provided in this subchapter within 30 days after the date of the violation shall be deemed admitted and the corresponding fine imposed.

3. The date on the notice of a fine issued for the alleged violation shall be presumptive evidence of the date of the violation.

4. In any prosecution charging a violation of any law or regulation governing the stopping, standing, or parking of a vehicle, proof that the particular vehicle described

in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking the registered owner of such vehicle, shall be sufficient for conviction.

60.11.05 FINE COLLECTION.

1. The owner or operator of any vehicle who receives a simple notice of a fine, either personally or by the placing of such notice on the vehicle, that the vehicle is in violation of the ordinances of the City shall pay to the City a fine as outlined in the Fee Schedule.

2. Any vehicle on which four or more overtime or illegal parking citations or complaints from the City have been issued and have become delinquent shall be deemed to be a habitual violator. For purposes of this subchapter, a delinquent parking citation or complaint is one that has not been paid within 30 days of the date upon which the violation occurred. No person shall park a vehicle and permit it to remain standing upon any public street or City-owned parking lot or property in the City when there are four or more delinquent parking citations or complaints from the City outstanding against that vehicle. A violation of this section shall place such vehicle in the status of an illegally parked vehicle, and the vehicle may be dealt with pursuant to Section 60.11.06.

60.11.06 IMPOUNDING VEHICLES. A police officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot, highway, or privately-owned property or area developed as an off-street parking facility to the nearest garage or other place of safety, or to a garage designated or maintained by the City, and to treat the vehicle as an "abandoned vehicle" pursuant to the provisions of Sections 321.89 and 321.90 of the *Code of Iowa*, 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 upon a street and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic; or when any vehicle is a habitual violator under Section 60.11.05; or when any vehicle is and has been in violation of Section 60.10.07 for more than 24 hours and the owner, lessee, or person in charge of the privately-owned property or facility has posted a sign or signs in a conspicuous location indicating that parking is prohibited, except to customers of the business located on the property or serviced by the facility

(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 24-Hour Period. When any vehicle is left parked upon a street for a continuous period of 24 hours or more.

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

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this Code shall be required to pay the reasonable cost of towing and storage, as well as the fines or fees associated with the impound and any outstanding parking tickets.

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

[The next page is 587]

CHAPTER 60 TRAFFIC AND VEHICLES

SUBCHAPTER 60.12

ATVS, UTVS, AND SNOWMOBILES

60.12.01 Purpose
60.12.02 Definitions
60.12.03 General Regulations
60.12.04 Operation of Snowmobiles
60.12.05 Operation of ATVs and UTVs
60.12.06 Negligence
60.12.07 Accident Reports

60.12.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles, off-road utility vehicles, and snowmobiles within the City.

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

1. "All-terrain vehicle" or "ATV" means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

3. "Off-road utility vehicle" or "UTV" means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. "Off-road utility vehicle" or "UTV" includes the following vehicles:

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

A. "Off-road utility vehicle – Type 1" includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. "Off-road utility vehicle – Type 2" includes vehicles, other than Type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. "Off-road utility vehicle – Type 3" includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an UTV is also subject to the provisions of this chapter governing the operation of ATVs.

4. "Snowmobile" means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 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 that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

60.12.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle, or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

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

60.12.04 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 that 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(4)(a))

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(4)(c))

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 90 degrees 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 that 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(1)(h))

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

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

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.

60.12.05 OPERATION OF ATVS AND UTVS. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on roadways or highways in accordance with Section 321.234A of the *Code of Iowa.* A City may regulate the operation of registered ATVs and UTVs and may designate streets under the jurisdiction of the City within its corporate limits, and two-lane primary and secondary road extensions in the City, which may be used for the operation of such vehicles. In designating such streets, the City may authorize ATVs and UTVs to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10(1 and 3))

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

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

3. Railroad Right-of-Way. ATVs and UTVs shall not be operated on an operating railroad right-of-way. An ATV or UTV 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(1)(h))

4. Parks and Other City Land. ATVs and UTVs 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 and UTVs 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."

6. Direct Crossing. An ATV or UTV may make a direct crossing of a highway that is not part of the interstate road system provided all of the following occur:

(Code of Iowa, Sec. 321I.10(5))

A. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

B. The ATV or UTV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

E. The crossing is made from a street, roadway, or highway on which the ATV or UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.

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

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

60.12.07 ACCIDENT REPORTS. Whenever an ATV, UTV, or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to $1,500.00 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 and 321I.11)

[The next page is 595]

CHAPTER 60 TRAFFIC AND VEHICLES

SUBCHAPTER 60.13

BICYCLE REGULATIONS

60.13.01 Scope of Regulations
60.13.02 Traffic Code Applies
60.13.03 Obedience to Signals
60.13.04 Double Riding Restricted; Riding on Handlebars Prohibited
60.13.05 Place of Riding; Two Abreast Limit
60.13.06 Bicycle Paths; Nondiscrimination on the Basis of Disability
60.13.07 Speed and Reckless Operation
60.13.08 Emerging from Alley or Driveway
60.13.09 Carrying Articles
60.13.10 Control
60.13.11 Operation on Sidewalks
60.13.12 Towing
60.13.13 Improper Riding
60.13.14 Parking
60.13.15 Equipment Requirements
60.13.16 Alteration of Serial Frame Number
60.13.17 Sirens or Whistles
60.13.18 Prohibited Operation - Interstate Highway 235
60.13.19 Following Emergency Vehicles

60.13.01 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. The following terms are defined as used in this subchapter.

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

1. "Bicycle" means either of the following:

   A. A device having up to four wheels and having at least one saddle or seat for the use of a rider and which is propelled by human power.

   B. A device having up to four wheels with fully operable pedals and an electric motor of one horsepower or less.

2. "Multi-use trail" means a way or place, the use of which is controlled by the City as an owner of real property, designated by the multi-use recreational trail maps, as approved by resolution by the Council, and no multi-use trail shall be considered as a street or highway.

3. "Other power-driven mobility device" means any mobility device powered by batteries, fuel, or other engines, whether or not designed primarily for use by individuals with mobility disabilities, which is used by individuals with mobility disabilities for the purpose of locomotion, including golf carts, electronic personal assistance mobility devices (EPAMDs), such as the Segway PT, or any mobility device designed to operate in areas without defined pedestrian routes, but which is not a wheelchair within the meaning of this section. This definition does not apply to federal wilderness areas; wheelchairs in such areas are defined in Section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

4. "Wheelchair" means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion. This definition does not apply to federal wilderness areas; wheelchairs in such areas are defined in Section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

60.13.02 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.

(Code of Iowa, Sec. 321.234)

60.13.03 OBEDIENCE TO SIGNALS. Any person operating a bicycle shall obey the directions of traffic control signs, signals, and devices applicable to other vehicles unless otherwise directed by a police officer and shall obey direction signs relative to turns permitted unless such person dismounts from the bicycle, in which case he or she shall then obey the regulations applicable to pedestrians.

60.13.04 DOUBLE RIDING RESTRICTED; RIDING ON HANDLEBARS PROHIBITED. 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. It is unlawful for the operator of any bicycle (or of any motorcycle not equipped with a side car or built to transport two persons), when upon any public street, to carry any other person upon the handlebars, frame, or other part thereof, or for any other person to so ride on such vehicle. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

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

60.13.05 PLACE OF RIDING; TWO ABREAST LIMIT.

1. Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction shall ride as close as practicable to the right-hand curb or edge of the roadway, except under any of the following situations:

   A. When overtaking and passing another bicycle vehicle proceeding in the same direction.

   B. When preparing for a left turn at an intersection or into a private road or driveway.

   C. When reasonably necessary to avoid conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes, which make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

   D. A facility that would allow bicycle traffic on the left side of the roadway.

2. Any person operating a bicycle upon a roadway which carries traffic in one direction only and has two or more marked traffic lanes, may ride as near the left-hand curb or edge of such roadway as practicable.

3. When riding upon any multi-use trail with other cyclists, there shall not be more than two abreast.

4. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

60.13.06 BICYCLE PATHS; NONDISCRIMINATION ON THE BASIS OF DISABILITY. The City shall permit individuals with mobility disabilities to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any area open to pedestrian use, including bicycle paths. The City shall also permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless it is demonstrated that the class of power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the City has adopted in accordance with the *Americans with Disabilities Act* Part 35.

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

60.13.07 SPEED AND RECKLESS OPERATION. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing, and no person shall operate a bicycle in such a manner as to constitute a willful and wanton disregard for the safety of persons or property.

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

60.13.08 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))

60.13.09 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handlebars.

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

60.13.10 CONTROL. The operator of a bicycle upon a street or public way shall keep the same under control at all times and at all times during operation shall have one or both hands upon the handlebars and the feet engaged with the braking device if the braking device is designed to be actuated by the feet.

60.13.11 OPERATION ON SIDEWALKS. Bicycles may be operated upon the public sidewalks in a careful and prudent manner, except where signs are erected to prohibit riding on the sidewalk, and at a rate of speed not exceeding eight MPH. Every person lawfully operating a bicycle upon a public sidewalk, when approaching a pedestrian or a vehicle occupied by a child under the age of 16 years, shall either dismount or give a clear right-of-way to the full extent of such sidewalk to such pedestrian or child and, in overtaking such pedestrian or child, shall give an audible signal before passing.

60.13.12 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.

60.13.13 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.

60.13.14 PARKING. No person shall leave a bicycle lying on its side on any sidewalk or park a bicycle on a sidewalk in any other position, so that there is not an adequate path for

pedestrian traffic. Local authorities may, by ordinance or resolution, prohibit bicycle parking in designated areas of the public highway, provided that appropriate signs are erected.

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

1. Lamps and Reflectors. Every bicycle shall be equipped with a lamp on the front exhibiting a white light, when used on the public ways of the City at any time from sunset to sunrise, and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street at a distance of 500 feet ahead. Such light shall be visible from a distance of at least 300 feet to the front. Such bicycle when so used shall display a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that in lieu thereof may be used a red reflector mounted not less than 24 inches or more than 42 inches above the ground, which shall be visible at night from all distances within 500 feet to 50 feet from the bicycle when directly in front of a motor vehicle displaying lawfully lit headlamps.

2. Brakes. Each bicycle used upon the public ways of the City shall be equipped with a brake which will enable the operator to make the braked wheel skid on a dry, level pavement and which may be applied and bring the bicycle to a stop without the brake locking the braked wheel.

3. Equivalent equipment such as headlamps and red-light attachments to the arm or leg may be used in lieu of a lamp on the front and a red light on the rear of the bicycle.

4. A police officer riding a police bicycle is not required to use either front or rear lamps if duty so requires.

60.13.16 ALTERATION OF SERIAL FRAME NUMBER. It is unlawful for any person willfully or maliciously to remove, destroy, mutilate, or alter the manufacturer's serial frame number of any bicycle.

60.13.17 SIRENS OR WHISTLES. No bicycle shall be equipped with nor shall any person use upon a bicycle any siren or whistle. This section does not apply to bicycles ridden by peace officers in the line of duty.

60.13.18 PROHIBITED OPERATION - INTERSTATE HIGHWAY 235. No person shall ride, park, or stop any bicycle within any fenced portion of the right-of-way of Interstate Highway 235.

60.13.19 FOLLOWING EMERGENCY VEHICLES. No person riding a bicycle shall follow closer than 500 feet to an emergency vehicle, as defined by Section 321.1 of the *Code of Iowa*, which has emergency lights or siren activated, and shall not stop, park, or leave a bicycle within 500 feet of an emergency vehicle stopped in response to an emergency.

[The next page is 603]

CHAPTER 60 - TRAFFIC AND VEHICLES

SUBCHAPTER 60.14

OPERATION OF GOLF CARTS ON CITY STREETS

60.14.01 Purpose
60.14.02 Definition
60.14.03 Operation of Golf Carts Permitted
60.14.04 Traffic Code Applies
60.14.05 Prohibited Areas
60.14.06 Unlawful Operations
60.14.07 Equipment
60.14.08 Hours of Operation
60.14.09 Speed
60.14.10 Parking
60.14.11 Penalty

60.14.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on streets in the City as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter applies whenever a golf cart is operated on any street, alley, or other public ways of the City.

60.14.02 DEFINITION. "Golf cart" means a four-wheeled recreational vehicle generally used for transportation of persons in the sport of golf that is either electric-powered or gas-powered with an engine displacement of less than 351 cubic centimeters and a total dry weight of less than 800 pounds.

60.14.03 OPERATION OF GOLF CARTS PERMITTED. Golf carts may only be operated upon the streets with the approval of the Mayor or Police Chief for authorized functions, special events, or official City business by persons possessing a valid operator's license, and at least 18 years of age, except as prohibited in Section 60.14.05.

60.14.04 TRAFFIC CODE APPLIES. Every person operating a golf cart upon a street or alley shall be granted all of the rights and privileges and shall be subject to all the duties and obligations applicable to the driver of a vehicle and to the laws of the State declaring the rules of the road applicable to the driver of the vehicle, except as to those provisions which by their nature can have no application.

60.14.05 PROHIBITED AREAS.

1. Streets. Golf carts shall not be operated upon any City streets with a posted speed limit of greater than 25 MPH or any City streets or parts of any City streets listed below:

   A. 63rd Street.

   B. 70th Street.

   C. 73rd Street.

   D. However, golf carts may cross the aforementioned streets.

   E. Golf carts may be operated on closed or controlled streets for approved City special events, parades, and other official City business.

2. Trails. Golf carts shall not be operated on any recreational, bike, or walking trail.

3. Sidewalks. Golf carts shall not be operated on sidewalks unless authorized for an approved function, special event, or official City business.

4. City Parks and Other Land Owned by the City. Golf carts shall not be operated in City parks or upon other City-owned land unless for an approved function, special event, or official City business.

5. Special Exemptions. The Mayor or Police Chief is authorized to permit golf carts to operate on restricted City streets as authorized by State law or this Code.

60.14.06 UNLAWFUL OPERATIONS.

1. No golf cart shall be operated while under the influence of alcoholic beverages, narcotics, or habit-forming drugs.

2. No person shall operate a golf cart in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to same.

3. No golf cart shall carry more passengers than the golf cart is designed for.

60.14.07 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a minimum of the following safety features:

1. A slow-moving vehicle sign.

2. A bicycle safety flag, the bottom of which shall be above the top of the golf cart.

3. Adequate brakes.

4. Rear view mirror - driver's side.

60.14.08 HOURS OF OPERATION. Golf carts may be operated on City streets, alleys, and other public ways only between sunrise and sunset.

60.14.09 SPEED. No golf cart shall be operated on any City street at a speed in excess of 20 MPH.

60.14.10 PARKING. Golf carts shall park in areas open for parking. Golf carts shall not be parked overnight on City streets, alleys, parks, or other public ways, unless approved by the Police Chief or designee.

60.14.11 PENALTY. A person who violates this chapter is guilty of a simple misdemeanor punishable as a scheduled violation under the *Code of Iowa* as shown below.

1. First Offense - $75.00.

2. Second Offense and Subsequent - $100.00.

[The next page is 701]

CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions
90.02 Mandatory Connections
90.03 Water Service Provided by Des Moines Water Works
90.04 Permits
90.05 Fees and Charges
90.06 Collections and Liens
90.07 Compliance with Plumbing Code
90.08 Plumber Required
90.09 Failure to Maintain
90.10 Completion by the City
90.11 Operation of Curb Valve and Hydrants

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code pertaining to the Water Service System:

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

2. "Des Moines Water Works" means the City water utility organized under Chapter 388 of the *Code of Iowa*, which is officially known as the Board of Water Works Trustees of the City of Des Moines, Iowa.

3. "Water service pipe" means the pipe from the water main to the building served.

4. "Water system" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

90.02 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy, or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.03 WATER SERVICE PROVIDED BY DES MOINES WATER WORKS. Water service to all customers, within and without the City, that are connected to the water system of the City shall be provided by the Des Moines Water Works, pursuant to the terms of a Chapter 28E Agreement between the City and the Des Moines Water Works. All such services shall be provided directly by Des Moines Water Works as the water service provider to customers and shall be pursuant to the rates, fees, rules, and regulations established by the Des Moines Water Works from time to time.

90.04 PERMITS. Before any person makes a connection with the public water system, a written permit must be obtained from the Des Moines Water Works as provided in its rules and regulations.

90.05 FEES AND CHARGES. Fees and charges for permits, taps, connections, and all other services, including system development fees, shall be established by, collected by, and subject to the policies and procedures of the Des Moines Water Works.

90.06 COLLECTIONS AND LIENS. The Des Moines Water Works shall have, and may exercise, all authority for collection of water rates and charges granted by law, including discontinuing service and imposition of liens as provided by law.

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions, of the *Plumbing Code* of the City and the laws of the State.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber, except that Des Moines Water Works shall be allowed to make routine service line repairs in connection with water main repairs.

90.09 FAILURE TO MAINTAIN. When any portion of the water service pipe, which is the responsibility of the property owner, becomes defective or creates a nuisance and the owner fails to correct such nuisance, the Des Moines Water Works may do so, and the City may assess the costs thereof to the property.

90.10 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with, and in the same manner as, general property taxes.

90.11 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person, except the Des Moines Water Works or authorized City personnel, to turn water on at the curb valve, and no person, unless specifically authorized by the City or the Des Moines Water Works, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

[The next page is 707]

CHAPTER 91

CROSS CONNECTION CONTROL

91.01 Definitions
91.02 Administrative Authority
91.03 New Water Services
91.04 Existing Water Services
91.05 Customer Responsibilities
91.06 Required Backflow Prevention Assemblies for Containment – Water Services
91.07 Required Backflow Prevention Assemblies for Containment – Fire Protection Systems
91.08 Backflow Prevention Assembly Technicians
91.09 Installation of Backflow Prevention Assemblies
91.10 Testing of Backflow Prevention Assemblies
91.11 Repair of Backflow Prevention Assemblies
91.12 Customer Noncompliance

91.01 DEFINITIONS. The following definitions apply only to this chapter. For the purpose of this chapter, these definitions supersede definitions given elsewhere in this Code.

1. "Administrative authority" means Des Moines Water Works and the City.

2. "Approved backflow prevention assembly for containment" means a backflow prevention assembly which is listed by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research as having met the requirements of ANSI-AWWA Standard C510-97, *Double Check Valve Backflow Prevention Assemblies*, of ANSI-AWWA Standard C511-97, *Reduced Pressure Principle Backflow Prevention Assemblies*, for containment. The listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly must also be listed by the International Association of Plumbing and Mechanical Officials.

3. "Approved backflow prevention assembly for containment in a fire protection system" means a backflow prevention assembly to be used in a fire protection system which meets the requirements of Factory Mutual Research Corporation (FM) and Underwriters Laboratory (UL), and the requirements of the *Fire Code* and the *Building Code* of the City, in addition to the requirements of Section 91.07. Devices sized smaller than two and one-half inches which have not been listed by Underwriters Laboratory (UL) and tested by Factory Mutual Research Corporation (FM) may be allowed if they meet the requirements of the *Fire Code* and the *Building Code*.

4. "Auxiliary water supply" means any water supply on or available to the premises other than City or its designee's approved public water supply, such as, but not limited to, a private well, pond, or river.

5. "Containment" means a method of backflow prevention which requires the installation of a backflow prevention assembly at the water service entrance.

6. "Cross connection" means any actual or potential connection or arrangement, physical or otherwise, between a potable water supply system and any plumbing fixture or tank, receptacle, equipment, or device, through which it may be possible for non-potable, used, unclean, polluted, and contaminated water or other substance to enter into any part of such potable water system under any condition.

7. "Customer" means the owner, operator, or occupant of a building or property which has a water service from a public water system, or the owner or operator of a private water system which has a water service from a public water system.

8. "Degree of hazard" means the rating given by the administrative authority of a cross connection or water service which indicates its potential to cause contamination or pollution of the public water supply.

9. "Double check valve backflow prevention assembly" means a backflow prevention device consisting of two independently acting internally loaded check valves, four properly located test cocks, and two isolation valves.

10. "High hazard cross connection" means a cross connection which may cause an impairment of the quality of the public potable water supply by creating an actual hazard to public health, through poisoning or through the spread of disease by sewage, industrial fluids, or waste.

11. "Isolation" means a method of backflow prevention in which a backflow prevention assembly is located at the cross connection rather than at the water service entrance.

12. "Low hazard cross connection" means a cross connection which may cause an impairment of the quality of the public potable water supply to a degree which does not create a hazard to public health, but which does adversely and unreasonably affect the aesthetic qualities of such potable waters for domestic use.

13. "Reduced pressure principle backflow prevention assembly" means a backflow prevention device consisting of two independently acting internally loaded check valves, a pressure relief valve, four properly located test cocks, and two isolation valves.

14. "Registered backflow prevention assembly technician" means a person who is registered by the State to test and repair backflow prevention assemblies and report on the condition of those assemblies.

15. "Thermal expansion" means volumetric increase of water due to heating resulting in increased pressure in a closed system.

16. "Water service" means, depending on the context, the physical connection between a public water system and a customer's building, property, or private water system, or the act of providing potable water to a customer.

17. "Public water supplier," for the purpose of this section, means the entity providing public water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serving an average of at least 25 people for at least 60 days a year.

91.02 ADMINISTRATIVE AUTHORITY.

1. The City or Des Moines Water Works shall have the right to enter, with the consent of the customer or upon the basis of a suitable warrant issued by a court of appropriate jurisdiction, any property to inspect for possible cross connections.

2. Des Moines Water Works shall maintain records of cross connection hazard surveys, and the installation, testing, and repair of all backflow prevention assemblies installed for containment purposes.

91.03 NEW WATER SERVICES.

1. Plans shall be submitted to Des Moines Water Works for review on all new water services to determine the degree of hazard.

2. Des Moines Water Works shall determine the type of backflow prevention assembly required for containment based on the degree of hazard.

3. The Des Moines Water Works shall inspect the installation of the required backflow prevention assembly for containment before the initiation of water service.

91.04 EXISTING WATER SERVICES.

1. Upgrades of existing water services shall be treated as new water services for the purpose of this section.

2. Customers whose premises are not classified as single-family residential shall complete and return a "Water Usage Inventory" to Des Moines Water Works to be used to determine the degree of hazard of the facility.

3. Des Moines Water Works shall, on the basis of information received from the Water Usage Inventory or gathered through on-site investigations or surveys, determine the degree of hazard and type of backflow prevention assembly required for containment.

4. Within the time frame specified in writing by Des Moines Water Works, the customer shall install a backflow prevention assembly for containment.

5. For existing water services, Des Moines Water Works may inspect the premises to determine the degree of hazard. When high hazard cross connections are present, Des Moines Water Works shall assign a deadline for the installation of a backflow prevention assembly for containment.

6. Failure of the customer to install a backflow prevention assembly by the deadline as required will result in termination of the water service until the installation is complete.

7. Failure of Des Moines Water Works to notify a customer that a high hazard cross connection exists and that a backflow prevention assembly for containment must be installed in no way relieves a customer of the responsibility to comply with all requirements of this section.

91.05 CUSTOMER RESPONSIBILITIES.

1. The customer shall be responsible for ensuring that no cross connections exist without approved backflow protection within their premises, starting at the point of service from the public potable water system.

2. The customer shall, at their own expense, cause installation, operation, testing, and maintenance of backflow prevention assemblies.

3. The customer shall ensure that copies of records of the installation and of all tests and repairs made to all backflow prevention assemblies be submitted to the Des Moines Water Works on the approved form within 15 days after testing or repairs are completed.

4. In the event of a backflow incident, the customer shall immediately notify Des Moines Water Works of the incident, and the Des Moines Water Works will recommend steps to confine the contamination or pollution.

91.06 REQUIRED BACKFLOW PREVENTION ASSEMBLIES FOR CONTAINMENT – WATER SERVICES.

1. An air gap or an approved reduced pressure principle backflow prevention assembly is required for water services having one or more cross connections which the administrative authority has classified as high hazard.

2. An approved double check valve assembly is required for water services having no high hazard cross connections but having one or more cross connections which Des Moines Water Works has classified as low hazard.

91.07 REQUIRED BACKFLOW PREVENTION ASSEMBLIES FOR CONTAINMENT – FIRE PROTECTION SYSTEMS.

1. A reduced pressure principle backflow prevention assembly shall be installed on all new and existing fire protection systems, which are determined to have any one of the following:

A. Direct connections from public water mains with an auxiliary water supply on or available to the premises for pumper connection.

B. Interconnections with auxiliary supplies such as reservoirs, rivers, ponds, wells, mills, or other industrial water systems.

C. Use of antifreezes or other additives in the fire protection system.

D. Combined industrial and fire protection systems supplied from public water mains only, with or without gravity storage or pump suction tanks.

E. Any other facility, connection, or condition, which may cause contamination.

2. A double check valve assembly will be required for all other fire protection systems. The double check valve assembly shall be required on all new systems at the time of installation and on existing systems at the time that they are upgraded.

3. Submittal of proposed backflow prevention devices to Des Moines Water Works does not relieve the designer or the sprinkler contractor of the responsibility of submitting plans, including backflow prevention devices to the City for approval.

91.08 BACKFLOW PREVENTION ASSEMBLY TECHNICIANS.

1. A backflow prevention assembly technician registered by the State shall include their registration number on all correspondence and forms required by or associated with this chapter.

2. Noncompliance with any of the following by a registered technician shall be grounds for reporting said individual to the State Health Department.

A. Improper testing or repair of backflow prevention assemblies.

B. Improper reporting of the results of testing or of repairs made to backflow prevention assemblies.

C. Failure to meet registration requirements.

D. Related unethical practices.

91.09 INSTALLATION OF BACKFLOW PREVENTION ASSEMBLIES.

1. The required backflow prevention assemblies for containment shall be installed in horizontal plumbing immediately following the meter or as close to that location as deemed practical by Water Works. In any case, it shall be located upstream from any branch piping. Installation at this point does not eliminate the responsibility of the customer to protect the water supply system from contamination or pollution between the backflow prevention assembly and the water main.

2. Reduced pressure principle backflow prevention assemblies shall be installed so as to be protected from flooding.

3. Reduced pressure principle backflow prevention assemblies shall not be installed in underground vaults or pits.

4. All backflow prevention assemblies shall be protected from freezing. Those devices used for seasonal water services may be removed in lieu of being protected from freezing; however, the devices must be reinstalled and tested by a registered backflow prevention technician prior to service being reactivated.

5. If hot water is used within the water system, thermal expansion shall be provided for when installing a backflow prevention assembly for containment.

6. Provisions shall be made to convey the discharge of water from reduced pressure principle backflow prevention assemblies to a suitable drain.

7. No backflow prevention assemblies shall be installed in a place where it would create a safety hazard, such as, but not limited to, an electrical panel, or above ceiling level.

8. If interruption of water service during testing and repair of backflow prevention assemblies for containment is unacceptable, another backflow prevention assembly, sized to handle the temporary water flow needed during the time of test or repair, should be installed in parallel piping.

9. All backflow prevention assemblies shall be installed so that they are accessible for testing.

10. All shut-off valves shall conform to the current edition of the *Manual of Cross Connection Control* (University of Southern California) requirements for either ball or resilient seat gate valves at the time of installation. Ball valves shall be used on assemblies installed in piping two inches and smaller and resilient seat gate valves on assemblies installed in piping larger than two inches.

11. Location and protection of the containment assembly shall be approved by Des Moines Water Works prior to installation.

91.10 TESTING OF BACKFLOW PREVENTION ASSEMBLIES. Testing of backflow prevention assemblies shall be performed by a registered backflow prevention assembly technician. The costs of tests required in the following subsections shall be borne by the customer.

1. Backflow prevention assemblies shall be tested upon installation and tested and inspected at least annually.

2. Backflow prevention assemblies, which are in place, but have been out of operation for more than three months, shall be tested before being put back into operation. Backflow prevention assemblies used in seasonal applications shall be tested before being put into operation each season.

3. Any backflow prevention assembly which fails a periodic test shall be repaired or replaced. When water service has been terminated for noncompliance, the backflow prevention assembly shall be repaired or replaced prior to the resumption of water service. Backflow prevention assemblies shall be retested by a registered backflow prevention assembly technician immediately after repair or replacement.

4. Des Moines Water Works may require backflow prevention assemblies to be tested at any time in addition to the annual testing requirement.

5. The registered backflow prevention assembly technician shall report the successful test of a backflow prevention assembly to the customer and to Des Moines Water Works within 15 days of the test.

Des Moines Water Works may require, at the owner's expense, additional tests of individual backflow prevention assemblies as it shall deem necessary to verify test procedures and results.

91.11 REPAIR OF BACKFLOW PREVENTION ASSEMBLIES.

1. All repairs to backflow prevention assemblies shall be performed by registered backflow prevention assembly technicians.

2. The registered backflow prevention assembly technician shall not change the design, material, or operational characteristics of a backflow prevention assembly during repair or maintenance and shall use only original manufacturer replacement parts.

3. The registered backflow prevention assembly technician shall report the repair of a backflow prevention assembly to the customer and to the Des Moines Water Works within 15 days of the repair. The report shall include the list of materials or replacement parts used.

4. Any time fire services are discontinued for a period of time longer than necessary to test the device; the tester is required to notify the Fire Marshal's office that the fire service is shut off for repair.

91.12 CUSTOMER NONCOMPLIANCE. The water service may be discontinued in the case of noncompliance with this section. Noncompliance includes, but is not limited to, the following:

1. Refusal to allow Des Moines Water Works access to the property to inspect for cross connections.

2. Removal of a backflow prevention assembly, which has been required by Des Moines Water Works or the City.

3. Bypassing of a backflow prevention assembly which has been required by Des Moines Water Works or the City.

4. Providing inadequate backflow protection when cross connections exist.

5. Failure to install a backflow prevention assembly, which has been required by Des Moines Water Works or the City.

6. Failure to test or properly repair a backflow prevention assembly as required by Des Moines Water Works or the City.

7. Failure to comply with the requirements of this chapter.

[The next page is 747]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties
95.10 Abandoned Sewer Lines
95.11 Access to Premises
95.12 Fees and Charges

95.01 PURPOSE. The purpose of the chapters of this Code pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

7. "Industrial wastes" means solid, liquid, or gaseous substances from any industrial, manufacturing, commercial, or business establishment, or process, or from the development, recovery, or processing of any natural resource which any person discharges or allows to be discharged into the public sewer, but does not include any wastes from a building used exclusively for residential purposes which contains eight dwelling or rooming units or less.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. "Parts per million" (PPM) means a weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 is equivalent to pounds per million gallons of water, and for the purposes of these Sanitary Sewer chapters, it means the same as milligrams per liter (mg/l).

12. "Paunch manure" means any material found in the stomachs or paunches of livestock

13. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

14. "Public sewer" means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

15. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.

16. "Sanitary sewer" means a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface, and groundwaters or unpolluted industrial wastes are not intentionally admitted.

17. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

18. "Sewage treatment plant" means the arrangement of devices and structures and equipment of the City of Des Moines for treating sewage and industrial wastes.

19. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

20. "Sewer" means a pipe or conduit for carrying sewage or any other wastes liquids, including storm, surface, and groundwater drainage.

21. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

22. "Slug" means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

23. "Standard methods" means the examination and analytical procedures set forth in the most recent edition of *Standard Methods for the Examination of Water, Sewage, and Industrial Wastes*, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

24. "Storm drain" or "storm sewer" means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

25. "Stormwater runoff" means that portion of rainfall that is drained into the sewers.

26. "Superintendent" means the Public Works Director of the City or any authorized deputy, agent, or representative.

27. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.

28. "Unpolluted water or liquids" means any water or liquid containing none of the following: free or emulsified grease or oil; substances that may impart taste-and-odor or color characteristics; volatile, explosive, toxic, or poisonous substances in suspension, colloidal state, or solution; explosive, odorous, or otherwise obnoxious gases. Such water or liquids shall not contain more than 25 mg/l of suspended solids, and not more than 25 mg/l of B.O.D.

29. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

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

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

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

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(3)(f))

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 200 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(3)(f))
(567 IAC 69.1(3))

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

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

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except Subsections 1, 3, and 4 of Section 95.04, shall be served by the City

with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

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

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

95.10 ABANDONED SEWER LINES. When an existing sanitary sewer service is abandoned or a service is renewed with a new connection in the main, all abandoned connections shall be terminated and made watertight at the main unless otherwise directed by the Superintendent.

95.11 ACCESS TO PREMISES. The City shall be entitled access to the premises of any customer for the purpose of inspection, observation, measurement, sampling, and testing at any reasonable time and to such extent as may be necessary to carry out the provisions of these chapters, and it shall be deemed a part of the agreement on the part of the customer, as a condition to permission to connect with the public sewer, that such access be granted.

95.12 FEES AND CHARGES. Fees and charges for all sewer services shall be established by the Urbandale and Windsor Heights Sanitary Sewer District and shall be collected by the Des Moines Water Works.

[The next page is 757]

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit; Fees
96.02 Plumber Required
96.03 Excavations
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 Sewer Lateral Repair or Replacement

96.01 PERMIT; FEES. 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 person who makes the building sewer connection application shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be outlined in the Fee Schedule.

96.02 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.03 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135.

96.04 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the current edition of SUDAS as adopted by the City in Chapter 157.

96.05 SEWER TAP. Connection of the building sewer to the public sewer shall comply with the current edition of SUDAS adopted by the City in Chapter 157 and in the location specified by the Superintendent.

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 *International 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 property owner is responsible for the "Y," or any other type of connection or connecting device, that connects the City sewer to the sewer service lateral. The property owner is responsible for the delivery of sewage to the sewer main.

96.08 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after the date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost

thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

96.09 SEWER LATERAL REPAIR OR REPLACEMENT.

1. Requirements for Sewer Lateral Repair or Replacement. The Superintendent shall issue a notice to repair to the property owner when the sewer lateral has conditions which would result in an unacceptable amount of inflow or infiltration to enter the sewer system or which would result in an unacceptable risk of blockages. The Superintendent shall have the sole discretion to determine when repair or replacement is required due to unacceptable conditions of a sewer lateral. A sewer lateral shall be considered in compliance with the provisions of this chapter if inspection verifies all of the following conditions to the satisfaction of the Superintendent:

A. The sewer lateral is free of roots, deposits of fat, oil, and grease (FOG), or other solids which may impede or obstruct the flow of sewage.

B. There are no illicit or illegal connections to the sewer lateral which would cause inflow, such as roof leaders, sump pumps, or yard drains.

C. All joints in the sewer lateral are tight and sound to prevent the exfiltration of sewage or the infiltration of groundwater.

D. The sewer lateral is free of structural defects, cracks, breaks, or missing portions and the grade is reasonably uniform without major sags or offsets.

E. The sewer lateral is equipped with cleanouts, if required, as determined by the Superintendent.

F. The sewer lateral is constructed of materials that are corrosive resistant, nonabsorbent, durable, and with a remaining design life of at least 25 years. "Orangeburg pipe," a bituminized fiber pipe made from layers of wood pulp and pitch pressed together, shall be considered to be at the end of its design life and not compliant with the provisions of this chapter.

G. A sewer relief valve, if required, is installed.

H. A sewer backwater valve, if required, is installed.

2. Owners' Duty to Make Connection. When any street or alley is ordered to be paved or otherwise permanently improved, it shall be the duty of all owners of property abutting upon such street or alley upon written notice from the City to at once make permanent and substantial connections meeting the conditions listed within this chapter with sewer, along such street or alley at their own cost and expense. The City shall order such connections made as are necessary, stating generally the location of the street, and the kind and character of connections to be made with the kind of materials to be used, and when the work of making such connections shall be completed.

3. Method and Material. The connections made within the street or alley from the mains to and right-of-way in front of the abutting property, shall be in accordance with the most current version of the *Statewide Urban Design and Specifications* (SUDAS).

4. Method. All the connections shall be made in a thorough and substantial manner under the direction and order of the Superintendent, and in the manner provided by plans or resolution for making connections therewith, so that whenever any such paving is once laid it need not be disturbed for the making of any such connection. No

repairs are allowed to be made to "Orangeburg" pipe without the written permission of the Superintendent. When encountered, "Orangeburg" pipe is to be replaced in its entirety of the sewer service.

5. Notice to Connect. In case any property owner or title holder fails to make such connections within the time allotted within the provided notice for the improvements of any such street or alley, the Council may order the same and cause the Superintendent to prepare notices to such delinquent property owners to make such connections within 10 days thereafter. The notices shall be mailed by certified mail to the last known address of the property owner or personally served on the property owner. The Superintendent may, at their option, also publish notice in a newspaper in the City stating the particular lot or lots or parcel of ground in front of which connections shall be made. The publication shall be made as required by law.

6. Completion of Work. The City shall include the connections the property owners fail to make within the Capital Improvement Project (CIP).

7. Connections Made by City. If any owner of abutting property fails to comply with the provisions of this section, by the time stated in the notice to connect, the City may proceed to have such connections made under the supervision and direction of the Superintendent and keep an accurate account of the expenses incurred.

8. Assessment. The Clerk shall send a statement of the total expense incurred, by certified mail, to the last known address of the property owner who has failed to abide by the notice to connect. If the amount shown on the statement is not paid within 30 days of mailing, the cost and expense of putting in connections by the City, as provided herein shall be levied as a special tax against the property abutting or adjacent thereto and the method of estimating, assessing, levying, and collecting the tax shall be the same as that prescribed for general taxes.

9. Excavations After Pavement Laid. Whenever any street or alley has been ordered to be paved, and property owners owning property abutting or lying along such street or alley have been notified by the City to connect their property by laying down pipes within the right-of-way in front of or along the property, any person so notified who has refused to comply with the requirements of the notice shall not enter upon such street or alley after it has been paved and make any excavation in the paved portion thereof for the purpose of connecting their property with such mains within four years after such paving is laid and not thereafter except by special resolution of the Council.

10. Permit Requirements. Property owner shall request a permit from the City. Permit fees are waived for permits related to a CIP.

[The next page is 765]

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 STORMWATER.

1. Prohibited Drainage. Stormwater runoff, roof runoff, subsurface drainage, and sump pump drainage shall not be drained:

A. Into sanitary sewers;

B. Within 10 feet of the property line or any public right-of-way.

2. Disposal of Subsurface Drainage and Stormwater. Where a storm sewer is not available, the disposition of stormwater and subsurface drainage shall be as follows:

A. For one- and two-family dwellings, to sump and pump to grade or drywell seepage pit as shown in the illustration of proper disposal of subsurface drainage and stormwater, on file in the office of the Superintendent.

B. For other than one- and two-family dwellings, to sump and pump to drywell seepage pit, or use lateral system similar to septic system with overflow on end.

C. Exception to Paragraphs A and B of this subsection, gravity drainage approved if footing and area drainage elevation is higher than drywell seepage pit drain discharge flow line.

3. Expansion Joints. Expansion joints or sleeves shall be provided where warranted by temperature variations or physical conditions.

4. Subsoil Drainage. No subsoil drainage system shall be installed to drain into a sewer intended for sanitary sewage.

5. Subsoil Drain. Where subsoil drains are placed under the cellar or basement floor or are used to surround the outer walls of a building, they shall be installed in accordance with the Building Code and shall be made of open-jointed, horizontally split or rigid plastic pipe not less than four inches in diameter. They shall be drained into an open sump with protective cover. Such sumps need not be vented. The building storm and subsoil drainage systems shall be connected to a storm sewer when such a sewer abuts the property. Where a sump pump is used, the discharge piping to the storm sewer, drywell seepage pit, or lateral system shall be inspected and approved before use.

6. Parking Lot and Retention Pond Drains. Parking lot and retention pond drains shall be installed as directed by the City Engineer and in accordance with the approved site plan, a copy of which shall be available on the job site.

7. Connection Required. The City may, at its sole discretion, require that a property owner connect a sump pump drain to the storm sewer or to a collector line when provided by the City or a developer when it is within 25 feet of the property owner's property.

8. Prohibited Acts. No person shall do, or allow, any of the following:

A. The installation or maintenance of a substandard drainage pipe in a private drainageway, in a City street right-of-way, in a City maintained easement area, or in a City stormwater drainage area, resulting in the flooding of properties adjacent to said drainageway, either upstream or downstream from said pipe or in said watershed, or resulting in the obstruction or surcharging of or damage to public drainageways, public storm sewers, sanitary sewers, or the MS4.

B. Failing to accurately maintain or periodically clean a private drainage pipe installed in a private drainageway, resulting in the flooding of properties adjacent to said drainageway either upstream or downstream from said pipe or in said watershed, or resulting in the obstruction or surcharging of or damage to public drainageways, public storm sewers, sanitary sewers, or the MS4.

C. Failing to adequately maintain or periodically clean a public drainageway on private property or a private drainageway, resulting in the flooding of properties adjacent to said drainageway either upstream or downstream from the inadequately maintained or cleaned portion thereof, or resulting in the obstruction or surcharging of or damage to public drainageways, public storm sewers, sanitary sewers, or the MS4.

9. Connections Made by City. In the event the property owner fails to comply with a connection requirement pursuant to this chapter, the City may proceed to have such connections made under the supervision and direction of the Superintendent and keep an accurate account of the expenses incurred. The City Clerk shall send a statement of the total expense incurred, by certified mail, to the last known address of the property owner who has failed to abide by the notice to connect. If the amount shown on the statement is not paid within 30 days of mailing, the cost and expense of putting in connections by the City as provided herein shall be levied as a special tax against the property abutting or adjacent thereto and the method of estimating, assessing, levying, and collecting the tax shall be the same as that prescribed for general taxes.

10. Right of Entry. The Public Works Director and other authorized employees of the City, bearing proper credentials and identification, 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.

11. Abatement. Whenever the City Administrator or other authorized municipal officer finds that a violation of this chapter has occurred, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.05 or the municipal infraction procedure referred to in Section 50.06.

[The next page is 771]

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 Septic Systems Required to Switch to City Sewer

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(3)(f))

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. Upon the effective date of this Code, any person that sells a home which utilizes a private septic system or on-site wastewater treatment and disposal system must install a building sewer connecting the property to the public sewer system.

(567 IAC 69.1(3))

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the *Iowa Administrative Code* 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(567 IAC 69.1(3 and 4))

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(567 IAC 69.1(3))

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

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 SEPTIC SYSTEMS REQUIRED TO SWITCH TO CITY SEWER. All septic systems used by commercial, home-based business, rental, or contract sales homes must switch over to the public sewer within one year after the adoption of this Code. Residential homes must switch over from septic to City sewer prior to the transfer of title or sale of property. A yearly inspection of all septic systems by a licensed plumber is required, with a report to be given to the City for the Building Inspector's review.

[The next page is 789]

CHAPTER 100

REGULATING OF INDUSTRIAL WASTEWATER AND COMMERCIAL WASTEWATER

100.01 Definitions
100.02 Abbreviations
100.03 General Adoption
100.04 Intent and Construction
100.05 Purpose and Policy
100.06 Jurisdiction
100.07 Severability
100.08 Interpretation
100.09 Reserved
100.10 User Requirements
100.11 Discharge Prohibitions
100.12 Local Limits for Specific Pollutants
100.13 National Categorical Pretreatment Standards
100.14 State Requirements
100.15 City's Right of Revision
100.16 Pretreatment
100.17 Dilution Prohibited
100.18 Spill Containment
100.19 Treatment Upsets
100.20 Treatment Bypass
100.21 Fees
100.22 Reserved
100.23 Classes of Permits
100.24 Permit Requirements
100.25 Permit Applications; Baseline Monitoring Reports; Compliance Issues
100.26 Report on Compliance by Categorical Users
100.27 Permit Contents
100.28 Permit Duration and Renewal
100.29 Continuation of Expired Permits
100.30 Permit Modifications
100.31 Permit Transfer
100.32 Denial of Permit
100.33 Permit Violations
100.34 Periodic Compliance Reports
100.35 Certification and Signatory Requirements
100.36 Monitoring Facilities
100.37 Inspection, Sampling, and Record Keeping Authority
100.38 Confidential Documents, Data, and Information
100.39 Appeal of Denial of Confidential Status
100.40 Reserved
100.41 Public Notification of Significant Noncompliance
100.42 Significant Noncompliance
100.43 Administrative Actions
100.44 Actions Authorized
100.45 Civil Penalties
100.46 Performance and Payment Bonds
100.47 Revocation of Discharge Permit; Termination of Sewer Service
100.48 Reserved
100.49 Reinstatement of Service
100.50 Emergency Disconnection of Service
100.51 Elimination of Discharge; Reinstatement of Permit
100.52 Additional Remedies
100.53 Notices to the WRA, the WRA Board, the WRA Director, or the WRA Steering Committee
100.54 Reserved
100.55 Purpose
100.56 Definitions
100.57 Effective Date of FOG Regulations
100.58 Grease Interceptor Installation Required and Effective Date
100.59 Exemption from Grease Interceptor Installation Requirements for Existing Facilities
100.60 Compliance Procedures
100.61 Installation of Grease Interceptors and Grease Traps
100.62 Operation, Maintenance, and Cleaning of Grease Interceptors and Grease Traps and Grease Hauler Certification
100.63 Records and Record Keeping
100.64 Inspection of Grease Interceptors and Related Sewers and Equipment
100.65 Trip Charges
100.66 Enforcement
100.67 Notice of Violation – Administrative Penalties - Corrective Action Order
100.68 Penalties
100.69 Order to Cease Operation of FSE
100.70 Appeal of Corrective Action Order or Cease and Desist Order
100.71 Additional Remedies
100.72 Reserved
100.73 Definitions
100.74 License
100.75 Issuance of License; Payment Bond Requirements
100.76 Standards for Vehicles and Equipment
100.77 Disposal
100.78 Identification of Source and Wasteload Approval
100.79 Mixing Wastes
100.80 Standards of Disposal at WRF
100.81 Rejection of Waste Loads
100.82 Treatment Fees for Hauled Wastes
100.83 Enforcement
100.84 Notice of Violation – Administrative Penalties - Corrective Action Order
100.85 Penalties
100.86 Denial, Suspension, and Revocation of License
100.87 Alternative Relief
100.88 Reserved

DIVISION 1. GENERAL PROVISIONS REGARDING INDUSTRIAL WASTE

100.01 DEFINITIONS. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Act" or "Clean Water Act" means the *1972 Federal Water Pollution Control Act*, the *1977 Clean Water Act*, and the *1987 Water Quality Act*, as amended.

2. "Approval authority" means the Iowa Department of Natural Resources.

3. "Authorized representative" means:

   A. An executive officer of a corporation.

   B. A general partner of a partnership.

   C. The proprietor of a proprietorship.

   D. The conservator, trustee, attorney in fact, receiver, or other person or agent authorized in law and in fact to act on behalf of users which are not corporations, partnerships, or proprietorships or on behalf of other entities which must legally act through an agent.

   E. Any other authorized representative of a person or entity identified in Paragraphs (A), (B), (C), or (D) of this definition, if the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company and the written authorization is submitted to the director.

   F. Any other person authorized by law to act on behalf of any entity.

4. "Baseline monitoring report" means the report required by 40 CFR 403.12(b)(1-7).

5. "Biochemical Oxygen Demand" (BOD) means the analysis of BOD as described in Environmental Protection Agency methods.

6. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the wall of the building and conveys it to the building sewer, beginning three feet outside the building wall.

7. "Building sewer" or "lateral sewer" means the sewer extending from the building drain to the connection with the POTW.

8. "Bypass" means the intentional diversion of waste streams from any portion of an industrial user's pretreatment facility.

9. "Carbonaceous Biochemical Oxygen Demand" (CBOD) means the analysis of BOD as described in Environmental Protection Agency methods while inhibiting the nitrogenous oxygen demand.

10. "Categorical user" means a user subject to National Categorical Pretreatment Standards.

11. "Chemical Oxygen Demand" (COD) means the measurement of the susceptibility of a sample to oxidation by a strong chemical oxidant expressed in mg/l and using Environmental Protection Agency methods.

12. "City" means the political subdivision known as the City of Windsor Heights, Iowa, and also means the territory within the corporate boundaries of the City of Windsor Heights.

13. "City sanitary sewer system" or "sanitary sewer system" means the local outfall sewers, trunk sewers, pumping stations, force mains, and wastewater equalization basins, and all other structures, devices, and appliances appurtenant thereto, which are used for collecting, conveying, or storing wastewater and which serve and are owned, operated, and maintained by the City or by a sanitary district serving the City.

14. "Combined waste stream formula" means the formula as found in 40 CFR 403.6(e).

15. "Composite sample" means a representative sample using a minimum of three grab sample aliquots obtained over a period of time and mixed using either a flow proportional or time proportional method.

16. "Conventional pollutant" means BOD, COD, O and G, suspended solids, pH, ammonia nitrogen, total Kjeldahl nitrogen, and fecal coliform bacteria.

17. "Discharge" or "indirect discharge" means the introduction of treated or untreated wastewater into the POTW.

18. "Dissolved solids" means the concentration of residue left in an evaporating dish after evaporation and drying at defined temperatures using Environmental Protection Agency methods or standard methods.

19. "Domestic wastewater" means all household-type waste discharged from places of human habitation, including toilet, bath, kitchen, and laundry wastewater. "Domestic wastewater" is further defined as waste which does not exceed daily maximum limits of 300 mg/l COD, 200 mg/l BOD, 250 mg/l suspended solids, 100 mg/l oil and grease, 30 mg/l TKN, and 15 mg/l NH3-N at a discharge rate of 100 gallons per capita per day. This loading is equal to 0.25 pounds of COD, 0.17 pounds of BOD, 0.20 pounds of suspended solids, 0.083 pounds of oil and grease, 0.025 pounds of TKN, and 0.013 pounds of NH3-N per capita per day.

20. "Domestic user" means a person discharging only domestic wastewater to the POTW, which wastewater is discharged from any building or parts of a building designed for or occupied by one or more persons as a single housekeeping unit, including such units within multi-family dwellings and apartment buildings, which building or premises is a source of wastewater discharge into a POTW.

21. "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency.

22. "Environmental Protection Agency methods" means standard procedures for wastewater analysis approved by the U.S. Environmental Protection Agency and prescribed in 40 CFR 136, and includes alternate methods approved by the approval authority.

23. "E. Coli" or "Escherichia coli" means bacteria that are a member of the fecal coliform group and whose presence indicates fecal contamination in water.

24. "Fecal coliform" means bacteria common to the intestinal tracts of humans and animals whose presence in water is an indication of pollution.

25. "Fat, oil, and grease," or "oil and grease," or "FOG" means those substances which are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases".

26. "Garbage" means solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the commercial handling, storage, and sale of produce.

27. "Grab sample" means a single aliquot sample collected either directly or by means of a mechanical device.

28. "Headworks" means the main wet well at the WRF prior to any treatment process.

29. "Industrial user" means a person whose property, building, or premises is a source of wastewater discharge into the POTW, other than a domestic user.

30. "Industrial waste" means the liquid waste from industrial users as distinct from domestic sewage.

31. "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources, which both:

A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal, and

B. Causes a violation of any requirement of the WRA's National Pollutant Discharge Elimination System permit (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or disposal in compliance with any federal, State, or local regulations or permits.

32. "Limit" means the maximum allowable discharge of a given pollutant as in the following definitions:

A. "Daily maximum limit" or "daily instantaneous maximum limit" means the maximum allowable discharge of pollutant as measured at any time during a calendar day, expressed as either a concentration limit or a daily mass limit. It is a violation if the concentration limit on any single sample taken exceeds that discharge limits in the discharge permit for the user, or the discharge limits set forth in Section 100.12.

B. "Monthly average limit" means the maximum allowable value for the average of all measurements of a pollutant obtained during one calendar month.

33. "National Categorical Pretreatment Standards" (NCPS) or "categorical standards" means any limitations on pollutant discharges to POTW promulgated by the U.S. Environmental Protection Agency that apply to specified process wastewater of particular industrial categories.

34. "National Pollutant Discharge Elimination System (NPDES) Permit" means a permit issued pursuant to the *Act*.

35. "New source" means a source as defined by 40 CFR 403.3(k).

36. "Nonconventional pollutants" means all pollutants which are not included in the definition of conventional pollutants.

37. "Non-Significant Categorical Industrial User" (NSCIU) is a categorial user which never discharges more than 100 gallons per day of total categorical wastewater, as defined in 40 CFR 403.3(v)(2).

38. "NH3-N" means the ammonia nitrogen concentration in mg/l as determined using Environmental Protection Agency methods.

39. "O and M" means operation and maintenance.

40. "Pass through" means a discharge which exits the POTW into water of the State in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the WRA's National Pollutant Discharge Elimination System Permit, including an increase in the magnitude or duration of a violation, or other permit issued to the WRA by the Iowa Department of Natural Resources or the U.S. Environmental Protection Agency.

41. "Person" means any individual, partnership, co-partnership, firm, company, association, joint stock company, society, corporation trust, estate, municipality, governmental entity, group, or any other legal entity, or their legal representatives, agents, or assigns.

42. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

43. "Pollution" means the alteration of chemical, physical, biological, or radiological integrity of water as a result of human activity or enterprise.

44. "POTW treatment plant" means that portion of the publicly owned treatment works which is designed to provide treatment, including recycling and reclamation, of municipal sewage and industrial waste.

45. "Pretreatment" means the reduction, elimination, or alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW.

46. "Pretreatment facility" means the equipment used to accomplish pretreatment.

47. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment standards, imposed on an industrial user.

48. "Pretreatment standards" means, for any specified pollutant, the prohibitive discharge standards as set forth in Section 100.11, the specific limitations on discharge as set forth in Section 100.12, the State pretreatment standards or the National Categorical Pretreatment Standards, whichever standard is most stringent.

49. "Properly shredded garbage" means the waste from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles are carried freely under the flow conditions normally prevailing in the POTW, with no particle greater than one-half inch in any dimension.

50. "Publicly owned treatment works" or "POTW" means and includes "POTW" treatment works as defined by Section 212 of the *Act*, and which is owned by the Des Moines Metropolitan Wastewater Reclamation Authority or any of participating communities that make up the WRA. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or

industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances if they convey wastewater to a POTW treatment plant.

51. "Sampling chamber" or "sampling maintenance hole" means a device or structure suitable and appropriate to permit sampling and flow measurement of a wastewater stream to determine compliance with this chapter.

52. "Sanitary district" means the Urbandale Sanitary Sewer District and Urbandale-Windsor Heights Sanitary District incorporated pursuant to Chapter 358 of the *Code of Iowa* and serving the cities of Urbandale and the City.

53. "Severe property damage" means substantial physical damage to property, damage to a pretreatment facility causing it to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

54. "Sewage" means and includes wastewater as herein defined.

55. "Sewage system" means sewers, intercepting sewers, pipes, or conduits, pumping stations, force mains, and all other constructions, devices, and appliances appurtenant thereto used for collecting or conducting sewage to a point of treatment or ultimate disposal.

56. "Significant user" means:

A. All categorical users.

B. All industrial users that:

(1) Discharge 25,000 gallons per day or more of process wastewater (excludes sanitary, non-contact cooling, and boiler blowdown wastewater);

(2) Contribute a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the WRF; or

(3) Contribute a discharge that has a reasonable potential, in the opinion of the Director, to adversely affect the POTW treatment plant by causing interference or pass through.

57. "Sludge" means the solids separated from the liquids during the wastewater treatment process.

58. "Slug" or "slug load" means any discharge of water or wastewater which, in concentration of any pollutant, measured using a grab or composite sample, is more than five times the allowable concentration as set forth in Sections 100.11 and 100.12 or in a user's most recent Wastewater Discharge Permit or which exceeds a slug concentration level specified in a Wastewater Discharge Permit. A discharge with pH outside the allowable range by more than one standard unit (S.U.) shall also be considered a slug.

59. "Standard Industrial Classification" (SIC) means a classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, most recent edition.

60. "Standard methods" means the laboratory procedures set forth in the latest USEPA approved edition of *Standard Methods for the Examination of Wastewater* prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

61. "Storm sewer" means a sewer which carries stormwater, surface water, and drainage, but excludes sewage and industrial waste other than unpolluted cooling water.

62. "T," when used as a portion of a chemical name, shall designate "total" such as in "cyanide-T" where "T" means "total" cyanide.

63. "TKN" means the Total Kjeldahl Nitrogen concentration expressed in mg/l as determined using Environmental Protection Agency methods or standard methods.

64. "Total metal" means the sum total of the suspended and dissolved concentrations of a metal specified in a wastewater discharge permit or as specified in Section 100.12 hereof.

65. "Total Suspended Solids" (TSS) means the portion of total solids retained by a filter using Environmental Protection Agency methods or standard methods.

66. "Total Toxic Organics" (TTO) means the summation of all quantified values greater than 0.01 milligram per liter for the toxic organics as specified in the applicable regulation.

67. "Toxic pollutant" means any pollutant or combination of pollutants listed in 40 CFR 403, Appendix B.

68. "Unpolluted water" means water containing none of the following:

A. Free or emulsified oil and grease;

B. Substances that may impart taste, odor, or color characteristics;

C. Volatile, explosive, toxic, or poisonous substances in suspension or solution;

D. Explosive, odorous, or otherwise obnoxious gases.

Such water shall not contain more than 25 mg/l of suspended solids, and not more than 25 mg/l of BOD.

69. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed pretreatment facilities, inadequate pretreatment facilities, lack of preventive maintenance, or careless or improper operation.

70. "User" means a person discharging anything other than domestic wastewater into the POTW, and includes categorical users as herein defined.

71. "Waste generator" means any person which hauls or has hauled on its behalf wastewater it generates to the WRF.

72. "Waste hauler" means a private contractor licensed by the WRA to deliver wastewater to the WRF or other locations approved by the WRA Director, and includes all persons required to have a license under Section 100.74.

73. "Wastewater" means and includes "sewage" as defined in federal law and regulation, or a combination of the liquid and water-carried waste from residences, commercial buildings, institutions, and industrial establishments, together with such groundwater, surface water, and stormwater as may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

74. "Wastewater Discharge Permit" means the document issued to a user by the WRA in accordance with the terms of this chapter which permits such user to discharge wastewater to the POTW.

75. "Water of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.

76. "WRA" or "wastewater reclamation authority" means the Des Moines Metropolitan Wastewater Reclamation Authority, an entity organized and existing under Chapters 28E and 28F of the *Code of Iowa* and established pursuant to the WRA Agreement. The term "WRA" means and includes the representatives of the participating communities on the WRA Board, and the officers and employees of the WRA.

77. "WRA Agreement" means the Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority, approved and executed by the WRA and its participating communities and effective as of July 1, 2004.

78. "WRA Director" or "Director" means the person appointed by the WRA Board, or by the WRA operating contractor upon consultation with the board, as provided in Section 2.63 of the WRA operating contract, who is charged with the administration and management of the WRA system and of the provision of all services outlined in operating contract. Unless otherwise indicated in the text, the Director shall mean and include the person acting as the Director's authorized designee in the Director's absence in carrying out the Director's duties under this chapter.

79. "WRA operating contractor" or "operating contractor" means the City of Des Moines, pursuant to the Initial Operating Contractor executed by the City of Des Moines and the WRA Board on and as of July 1, 2004, or such successor operating contractor as the WRA shall contract with to provide operation and management services to the WRA.

80. "WRA participating community" or "WRA participating communities" means, individually or collectively, depending on context, the cities of Altoona, Ankeny, Bondurant, Clive, Cumming, Des Moines, Grimes, Johnston, Norwalk, Pleasant Hill, Polk City, Waukee, and West Des Moines, and Polk County, Warren County, the Urbandale Sanitary Sewer District, the Urbandale-Windsor Heights Sanitary District and the Greenfield Plaza or Hills of Coventry Sanitary District, together with any other cities, counties, or sanitary districts that become participating communities under the provisions of the WRA Agreement.

81. "WRA system" means and includes the WRF, the WCCS, satellite wastewater and CSO treatment facilities hereafter constructed, all real and personal property of every nature hereinafter owned by the WRA and comprising part of or used as a part of the WRA system, and all appurtenances, contracts, leases, franchises, and other intangibles of the WRA.

82. "WRA wastewater collection and conveyance system" or "WCCS" means the WRA sanitary sewer interceptors and extensions to same, detention basins, equalization basins, storage facilities, pumping stations, force mains and all related property and improvements.

83. "WRA wastewater reclamation facility" or "WRF" means the wastewater treatment plant located generally at 3000 Vandalia Road, Des Moines, Iowa, as the same may be expanded or improved in the future, and any other wastewater treatment plants hereafter acquired or constructed and operated by the WRA.

100.02 ABBREVIATIONS. The following abbreviations, when used in this chapter, shall have the designated meanings:

BETX	Benzene, ethylbenzene, toluene, and xylenes (total)
BOD	Biochemical oxygen demand
BMR	Baseline monitoring report
C	Celsius
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
F	Fahrenheit
FOG	Fat, oil, and grease
GPD	Gallons per day
IDNR	Iowa Department of Natural Resources
lb/day	Pounds per day
mgd	Million gallons per day
mg/l	Milligrams per liter
NCPS	National Categorical Pretreatment Standards or categorical standards
NH3-N	Ammonia nitrogen
NPDES	National Pollutant Discharge Elimination System
O&G	Oil and grease
POTW	Publicly owned treatment works
SCP	Spill control plan
SIC	Standard industrial classification
SNC	Significant noncompliance
RCRA	Resource Conservation and Recovery Act
TCLP	Toxicity characteristic leaching procedure
TFE	Trichlorotrifluoroethane
TKN	Total Kjeldahl nitrogen
TOH	Total organic hydrocarbons
TRC	Technical review criteria
TSS	Total suspended solids
TTO	Total toxic organics
USC	United States Code
U.S. EPA	United States Environmental Protection Agency
VPH	Volatile petroleum hydrocarbons

100.03 GENERAL ADOPTION. The provisions of this chapter are enacted to aid in the enforcement of the pretreatment regulations set forth in this chapter and may be placed in a separate portion of the municipal or county code of any WRA participating community which

adopts these provisions. Each WRA participating community, by enacting this chapter, designates the WRA and its operating contractor as the enforcement agency under this chapter. Employees, agents, and officers of the WRA and of its operating contractor, while acting to enforce this chapter for the WRA, are empowered to make such inspections, issue such orders or permits, and take such actions within the corporate boundaries of the City within the boundaries of the Sanitary District as are authorized by this chapter. The WRA or its operating contractor is also authorized to impose and collect all fees or penalties authorized by this chapter and are authorized to directly bill and collect from contributors' penalties, fees charges, and surcharges from all users within the City. A user's failure to pay any fee, charge, penalty, or surcharge is a municipal infraction and shall also be grounds to discontinue sewer service to the user, all as hereafter more particularly provided. The enforcement of this chapter in the Sanitary District is not dependent upon passage of this chapter or a similar ordinance by other WRA participating communities.

100.04 INTENT AND CONSTRUCTION. This chapter seeks to implement provisions of the Act, the general pretreatment regulations found at 40 CFR, Part 403, and the *Iowa Administrative Code*, Chapter 567, Sections 62.4 and 62.8. This chapter is to be construed and applied in accordance with the *Clean Water Act* amendments, the general pretreatment regulations, the *Iowa Administrative Code*, and the purpose and policy provision set forth in Section 100.05.

100.05 PURPOSE AND POLICY.

1. This chapter regulates the use of sanitary sewers; private wastewater disposal; the installation and connection of building sewers; and the discharge of wastewater or waste into the POTW. This chapter sets forth uniform requirements for discharges into the POTW, and the deposit of wastewater and waste hauled to the WRF or to other locations approved by the WRA Director for disposal and treatment.

2. The objectives of this chapter are to:

A. To prevent the introduction of pollutants into the POTW that may interfere with the operation of the system or interfere with sludge management and disposal.

B. Prevent the introduction of pollutants into the POTW that may pass through the system inadequately treated and ultimately into receiving water, the atmosphere, or otherwise be incompatible with the system.

C. Protect workers' safety and health and protect against damage to the POTW.

D. Provide for equitable distribution of treatment and industrial pretreatment costs resulting from pollutants introduced into the POTW.

100.06 JURISDICTION. The sections of this chapter are applicable in their entirety to all users who contribute wastewater, directly or indirectly, into the POTW without regard to whether the physical facilities of such users are situated within or outside the corporate limits of the Sanitary District or City.

100.07 SEVERABILITY. If any provision of this chapter or the application thereof to any particular person or particular circumstance is held invalid, the invalidity shall not affect other provisions or application of this chapter which can be given effect without the invalid provision or application. To this end the provisions of this chapter are severable.

100.08 INTERPRETATION. This chapter shall be construed and interpreted to conform with 40 CFR I, and it is the intent of this chapter that it comply with the federal regulations.

100.09 RESERVED.

[The next page is 805]

DIVISION 2. WASTEWATER TREATMENT AND PRETREATMENT

100.10 USER REQUIREMENTS.

1. The following requirements shall apply to all users of the POTW:

   A. All users shall promptly notify the WRA Director in advance of any substantial change in the volume or character of pollutants in their discharge.

   B. New or increased contributions of pollutants or changes in the nature of pollutant discharged to the POTW shall require prior approval by the WRA Director.

   C. Industrial users shall notify the WRA Director, the Environmental Protection Agency Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. The notification shall comply with the requirements set forth in 40 CFR 403.12(p).

   D. Discharge of any pollutants without the notice and approval required by this section is prohibited. Upon the receipt of notice required by this section, the WRA Director shall, within 180 days or less, approve the discharge if they find the proposed discharge meets applicable pretreatment standards and requirements and would not cause the WRA to violate its National Pollutant Discharge Elimination System Permit. The WRA Director shall deny permission for the discharge if they find applicable pretreatment standards and requirements are not met or the discharge would cause a violation of the National Pollutant Discharge Elimination System Permit for the WRF. In lieu of denial of permission for discharge, the WRA Director may allow such discharge or contribution upon conditions which would not violate applicable pretreatment standards or requirements and would not cause a violation of the National Pollutant Discharge Elimination System Permit for the WRF.

   E. Food service establishments shall be regulated first under Division 5 of this chapter but may be required to obtain a Wastewater Discharge Permit and be subject to the requirements of Divisions 1-4 if the WRA Director determines that additional pretreatment is required in order to comply with fat, oil, and grease discharge limits.

2. Any part of this section notwithstanding, upon receipt of the notice required by this section, the WRA Director may require, in addition to the requirements of this section, that an industrial user obtain a permit under this chapter.

3. Users who are determined to be industrial users as herein defined and who refuse to apply for or obtain a Wastewater Discharge Permit shall be subject to termination of sewer services as provided in Section 100.47 hereof.

100.11 DISCHARGE PROHIBITIONS. The following general prohibitions shall apply to all users of the POTW unless the user is subject to a more restrictive National Categorical Pretreatment Standards, the Iowa Department of Natural Resources, or Wastewater Discharge Permit limit. The following substances are prohibited from discharge to the POTW:

1. Pollutants creating a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods referenced in 40 CFR 261.21. Waste streams shall not be ignitable at ambient temperatures. At no time shall two successive readings on a meter capable of reading L.E.L. (lower explosive limit) at the nearest accessible point to the POTW, at the point of discharge into the POTW, or at any point in the POTW, be more than five percent nor any single reading greater than 10 percent.

2. Any substance which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 or greater than 12.0.

3. Solid or viscous pollutants which will cause obstruction to the flow in the POTW resulting in interference. Such pollutants include, but are not limited to, grease, garbage with particles greater than one-half inch any dimension, animal tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, wipes, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing waste, or tumbling and de-burring stones, and wastewater containing fat, wax, O and G, or other substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius).

4. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate or pollutant concentration which will cause interference or pass through at the WRF, or which constitutes a slug load as defined in this chapter.

5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) at the point of introduction into the POTW, and in no case wastewater or vapor which alone or in concert with other discharges produces a temperature at the WRF greater than 104 degrees Fahrenheit (40 degrees Celsius).

6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems or a public nuisance.

8. Any trucked or hauled pollutants, except at discharge points designated by the WRA.

9. Any radioactive material as defined in the *Atomic Energy Act of 1954*, as amended, and as defined in I.C. §136C.1, except materials which meet conditions of disposal by release into sanitary sewerage pursuant to 10 CFR 20.2003.

10. Any wastewater containing concentrations of inert suspended solids, such as, but not limited to, fuller's earth, lime slurries, and lime residues, or of dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate, which exceed 3,000

mg/l nonvolatile or 3,000 mg/l total dissolved solids unless approved by the WRA Director.

11. Pollutants causing excessive discoloration, such as, but not limited to, dye waste and vegetable tanning solutions.

12. Hazardous waste pharmaceuticals for human or animal use as defined in 40 CFR 266.500.

100.12 LOCAL LIMITS FOR SPECIFIC POLLUTANTS.

1. Generally. Local limits for specific pollutants discharged pursuant to this chapter shall be as follows:

A. Dilution. Dilution of the discharge from a pretreatment facility or from a regulated process is prohibited as a method for treatment of wastes in order to meet the limits set forth in this chapter.

B. Sample Location. Measurement of pollutant concentrations to determine compliance shall be made at the point immediately following the pretreatment facility and before mixture with other waters, unless another point is designated by the WRA Director. If necessary, the concentrations so measured shall be recomputed to exclude the effect of any dilution that is improper using the combined waste stream formula.

2. Headworks Limits; Average Mass. The average composite loading of all industrial users contributing the following specific pollutants to the POTW shall not exceed the allowable total pounds. The allocation of pollutants between industrial and nonindustrial sources may be adjusted by the Director provided that the allowable total loading for any pollutant at the headworks of the WRF is not exceeded.

	30-Day Average Allowable Pounds Per Day	
Pollutant	**Total**	**Industrial**
BOD	195,600	135,153
TSS	300,000	208,463
NH3	13,000	6,959
TKN	27,760	16,950

	Maximum Allowable Headworks Loading Pounds Per Day	**Maximum Allowable Industrial Loading Pounds Per Day**
Pollutant	**Total**	**Industrial**
Arsenic-T	7.58	3.81
Cadmium-T	3.65	2.16
Chromium-T	136.35	120.90
Copper-T	148.56	125.51
Cyanide-T	17.08	8.28
Lead-T	28.17	20.94
Mercury-T	0.999	0.747
Nickel-T	87.27	75.75
Silver-T	23.30	19.77
Zinc-T	360.59	283.53

3. Discharge Concentration Limits and Review Criteria. Discharge concentration limits and review criteria shall be as follows:

A. The discharge into the POTW of any materials, water, or waste having a pollutant concentration greater than the limits in Subsections (3)(C), (D), and (E) of this section or containing pollutants not listed in this subsection shall be subject to the review and approval of the WRA Director. After review of the proposed discharges, the WRA Director may:

(1) Reject the waste for reasons consistent with Section 100.05.

(2) Require pretreatment to an acceptable pollutant concentration for discharge to the POTW.

(3) Require control of the quantities and rates of discharge of the water or waste.

(4) Require payment to cover the added cost of handling and treatment of water and waste or any combination thereof.

(5) Reduce the maximum or average mass loading of present and prospective individual users on any reasonable prorated basis to meet headworks loading limits at the WRF.

(6) Require the user to obtain a Wastewater Discharge Permit and be subject to any of the rules and regulations contained therein.

(7) Require the user to meet local limits when local limits are more restrictive than National Categorical Pretreatment Standards, provided that headworks loading limits are met.

(8) Initiate enforcement action in response to any noncompliance with this chapter using the enforcement procedures outlined in this chapter.

(9) Take any combination of the steps in Subsections 3(A)(1) through 3(A)(7), as appropriate.

B. Users discharging wastewater to the POTW whose pollutant concentrations or flows are greater than the following shall be considered industrial users for purposes of sewer charges and may be regulated or permitted by the WRA Director as appropriate:

	Pollutant	**Daily Maximum (mg/l)**
a.	BOD	200
b.	TSS	250
c.	COD	300
d.	O and G-T	100
e.	TKN	30
f.	NH3-N	15
g.	An average daily flow greater than 5,000 gallons or having an unusual concentration of flow.	

C. Pollutant Limits. Average and maximum concentration limits for users without National Categorical Pretreatment Standards for these pollutants shall be as follows:

Pollutant	Daily Maximum (mg/l)	Monthly Average (mg/l)
Arsenic-T	0.38	0.25
Cadmium-T	0.08	0.05
Chromium-T	6.43	4.29
Copper-T	10.21	6.80
Cyanide-T	0.53	0.36
Lead-T	1.43	0.95
Mercury-T	0.042	0.028
Nickel-T	7.22	4.81
O and G-T	400.0	--
O and G-Mineral	100.0	--
Silver-T	1.30	0.87
VPH	10.0	--
Zinc-T	19.64	13.09
pH range shall be not lower than 5.0 or greater than 12.0. Temperatures (liquids or vapors) shall be not greater than 150 degrees Fahrenheit at the point of entry into the POTW.		

D. Daily Maximum Pollutant Limits for Hauled Waste. Wastes delivered to the WRF by truck or rail shall not exceed the following concentrations in any load or overall daily loading limits unless otherwise approved by the WRA Director:

Pollutant	Concentration (mg/l)	Loading (pounds per day)
COD	100,000	--
O and G-T	50,000	--
VPH	10.0	--
Arsenic-T	--	0.014
Cadmium-T	--	0.93
Chromium-T	--	24.74
Copper-T	--	23.71
Cyanide-T	--	0.29
Lead-T	--	6.70
Mercury-T	--	0.12
Nickel-T	--	3.71
Silver-T	--	0.26
Zinc-T	--	87.62
pH range shall be not lower than 5.0 or greater than 12.0		

E. Daily Maximum Limit for Gasoline Cleanup Projects. Discharge of wastewater from sites where gasoline is being removed from the soil or groundwater shall meet the following limits prior to discharge to the POTW:

Pollutant	mg/l
Benzene	0.050
BETX	0.750

4. No subsection of this section shall be construed to provide lesser discharge standards than are or that may be imposed and required by U.S. Environmental Protection Agency or the Iowa Department of Natural Resources, nor to allow the average allowable total loading for any pollutant at the headworks of the WRF to be exceeded.

100.13 NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Users subject to *National Categorical Pretreatment Standards* (NCPS) as contained in 40 CFR I, Subchapter N, Part 405-471 shall comply with the standards and applicable reporting requirements under 40 CFR 403.12. New sources of categorical discharge shall meet *National Categorical Pretreatment Standards* in the shortest feasible time, but in no case longer than 90 days from the commencement of discharge. Failure to comply shall be a violation of this chapter and subject the user to enforcement action. The WRA is required to notify all known affected categorical users of the applicable reporting requirements under 40 CFR 403.12. Failure of the WRA to notify a user shall not relieve the user of the duty, if any, to comply with *National Categorical Pretreatment Standards*.

100.14 STATE REQUIREMENTS. State requirements and limitations on discharges pursuant to this chapter shall apply when they are more stringent than U.S. Environmental Protection Agency or WRA requirements and limitations, unless allowed by the Iowa Department of Natural Resources.

100.15 CITY'S RIGHT OF REVISION. The City, acting at the direction of the WRA, reserves the right to establish more stringent limitations or requirements on discharges to the POTW than those contained in this chapter if deemed necessary to comply with the purpose and policy objectives presented in Section 100.05.

100.16 PRETREATMENT.

1. A user discharging or with potential to discharge any waste into the POTW as set forth in Sections 100.11, 100.12, or 100.13 of this division shall be required by the WRA Director to construct, install, and operate, at the user's sole expense, such pretreatment facilities as may be required in order to:

A. Reduce the objectionable characteristics or constituents of wastewater to within the maximum limits provided for in Sections 100.11, 100.12, 100.13, or 100.14.

B. Control the quantities and rates of discharge of such wastewater.

C. Reduce the pollutants to such concentration and flows as may be contained in the user's Wastewater Discharge Permit.

D. Prevent the discharge of liquid waste containing FOG, sand in excessive amounts, any flammable waste, or other harmful pollutants. All traps or similar devices shall be of a type and capacity needed to perform effectively

and shall be readily and easily accessible for cleaning and inspection. All traps or devices shall be provided and maintained in efficient operating condition at all times. Materials removed from traps shall be considered unacceptable for disposal at the WRF, unless specifically approved by the WRA Director.

2. All plans, specifications, technical operating data, and other information pertinent to the proposed operation and maintenance of pretreatment facilities shall be reviewed and approved by the WRA Director prior to construction. Design and installation of such facilities shall be subject to the requirements of all applicable codes, chapters, and laws, including local zoning regulations. The review and approval of such plans and operating procedures shall, in no way, relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the WRA Director under this chapter. Any subsequent changes in the pretreatment facilities or method of operations shall be reported to and be acceptable to the WRA Director prior to the user's initiations of the changes.

3. Users shall continuously maintain all pretreatment facilities required by this chapter in satisfactory and effective operating condition at the sole expense of such user.

4. No section contained in this chapter shall be construed to prevent or prohibit a separate or special agreement between the WRA and any user whereby wastewater containing waste of unusual strength, character, or composition may be accepted for treatment, subject to additional payment by such user; provided, however, that such agreement shall have the prior approval of the WRA Board, shall not conflict with the Iowa Department of Natural Resources and U.S. Environmental Protection Agency requirements, and shall be consistent with Section 100.66(2) and Sections 100.13 and 100.14, and Subsection 6 of this section.

5. The WRA Director may reject any waste which, in the opinion of the Director, may cause interference or pass through.

6. Users shall obtain the specific approval of the WRA Director prior to discharging any waste resulting from a pretreatment facility to the POTW. The WRA Director may develop a documentation system to track the transportation and final disposition of any pretreatment waste. Pretreatment waste regulated by this subsection shall include waste generated as a result of pretreatment processes used to comply with National Pollutant Discharge Elimination System Permits, air pollution permits, Wastewater Discharge Permits, soil or groundwater reclamation processes, and pollutants resulting from a spill of any liquid or solid material or the cleanup of any such spill. Pretreatment waste is prohibited from disposal to the water of the State except as specifically permitted by the Iowa Department of Natural Resources.

100.17 DILUTION PROHIBITED. Users shall not increase the use of processed water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the *National Categorical Pretreatment Standards*, or with any other pollutant-specific limitation developed by the WRA or its operating contractor.

100.18 SPILL CONTAINMENT.

1. Users having the ability to cause interference or pass through or to discharge a slug shall provide protection from accidental discharge to the POTW of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental

discharge of prohibited materials shall be constructed, installed, operated, and maintained at the user's sole cost and expense.

2. Users meeting the criteria in Subsection 1 of this section shall develop a spill containment plan. The plan shall require the approval of the WRA Director and shall contain the following:

A. A description of discharge practices, including non-routine batch discharges.

B. A description of stored chemicals.

C. Procedures for immediately notifying the WRA of slug discharges, including any that would violate the discharge prohibitions in Section 100.11 of this division. Notification procedures shall comply with Subsections 3 and 4 of this section.

D. A description of procedures and structures necessary to prevent adverse impacts upon the POTW from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, or measures and equipment for emergency response.

E. A schedule for the completion or implementation of necessary procedures and structures. Complete implementation and installation of any procedures or structures shall be according to the shortest possible schedule, but in no case longer than one year. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify and operate its facility as necessary to meet the requirements of this chapter.

3. Users shall immediately telephone and notify the WRA of any accidental or deliberate discharge of pollutants which violates Section 100.11 of this division, or which is a slug load. Any discharge into the POTW of a substance which is a listed or characteristic waste under Section 3001 of RCRA must be immediately reported to the U.S. Environmental Protection Agency Regional Director, the Iowa Department of Natural Resources, and the WRA. Notifications required in this subsection shall include the name of caller, location and time of discharge, pollutant concentration, volume, and the corrective actions taken.

4. Users shall submit a written report to the WRA Director within five days following such an accidental or deliberate discharge describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Users shall submit follow-up reports as may be required by the WRA Director. Such report shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property, nor shall such report relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or otherwise. Failure to report accidental or deliberate discharges may, in addition to any other remedies available to the City and Sanitary District, result in the revocation of the discharger's Wastewater Discharge Permit.

5. Users shall control production or all discharges to the extent necessary to maintain compliance with all applicable regulations upon reduction, loss, or failure of

its pretreatment facility until the facility is restored or an alternative method of pretreatment is provided. This requirement applies in the situation where, among other things, the primary source of power to the user's pretreatment facility is reduced, lost or fails.

6. Users required to have a spill containment plan must permanently post a notice in English and the language of common use on the user's bulletin board or other prominent place advising employees whom to call if a prohibited discharge occurs. Users shall ensure that all employees who are in a position to cause, discover, or observe such an accidental discharge are advised of the emergency notification procedures.

100.19 TREATMENT UPSETS.

1. Users shall inform the WRA Director within one hour of becoming aware of an upset in operations that places it in a temporary state of noncompliance with the pollutant limits in this chapter. Users shall provide a follow-up written report to the WRA Director within five days. The report must demonstrate that the pretreatment facility was being operated in a prudent and appropriate manner and shall contain:

A. A description of the upset, its cause, and impact on the user's compliance status.

B. The duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.

C. All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

100.20 TREATMENT BYPASS.

1. Under this chapter, bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternatives exist such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime.

2. The user may allow a bypass to occur which does not cause a violation of pretreatment standards, but only if it is for essential maintenance to ensure efficient operation.

3. Notification of bypass shall be submitted in accordance with the following:

A. Anticipated Bypass. If the user knows in advance of the need for a bypass, it shall submit prior written notice, at least 10 days before the date of the bypass, to the WRA Director.

B. Unanticipated Bypass. The user shall immediately notify the WRA Director and submit a written report to the WRA within five days. This report shall specify the following:

(1) A description of the bypass, its cause, and the duration.

(2) Whether the bypass has been corrected.

(3) The steps being taken or to be taken to reduce, eliminate, and prevent a reoccurrence of the bypass.

4. Proper notification shall not relieve the user of liability for treatment costs and fees or other remedies as provided for in Section 100.16 of this division.

100.21 FEES. To provide for the recovery of costs from users of the POTW and for the implementation of the pretreatment program established by this chapter, the following fees are hereby established and shall be applicable to discharges by all users:

1. All users shall be subject to the following fees and charges:

A. The one-time Wastewater Discharge Permit Application Fee shall be $200.00 for a Class A Permit and $100.00 for a Class B Permit.

B. The annual fee for a Class A Wastewater Discharge Permit, including annual inspection of permitted users, shall be $1,500.00.

C. The annual fee for a Class B Wastewater Discharge Permit, including annual inspection of permitted users if completed or applicable, shall be $750.00.

D. The fee paid by each industrial user when an accidental discharge or slug load occurs shall be the total of all costs incurred by the WRA as a result of said discharge or load. Said fee may be charged by the WRA separately from and in addition to a civil penalty of up to $1,000.00 charged to the user under Section 100.45 related to said discharge or load.

E. The trip charge for sampling or inspecting a user's discharge shall be $50.00 per event. An equipment fee of $50.00 per event shall also apply when using a WRA-owned automatic sampler. When a sampling or inspection event must be rescheduled due to failure of the user's sampling equipment, a sampler seal (used to detect sample tampering) being broken, monitoring facilities not being readily accessible or operational, or any other reason beyond the control of the WRA, a trip charge of $50.00 shall be assessed.

F. Laboratory analysis fees for those analyses performed by the WRA shall be as follows:

LABORATORY ANALYSIS FEES	
Test	**Cost/Sample**
BOD	$20.00
COD	$20.00
Total Organic Carbon (TOC)	$20.00
TSS	$10.00
pH	$5.00
Oil and grease - Total	$35.00
Mineral or Nonmineral	$35.00
Nitrogen, ammonia	$15.00
Nitrogen, nitrate	$15.00
TKN	$30.00
Phosphorous, total	$25.00
Potassium	$12.00
Calcium carbonate equivalent	$15.00
Soil analysis, each pollutant	$20.00
Phenols	$28.00
Cyanide	$30.00

LABORATORY ANALYSIS FEES	
Test	**Cost/Sample**
Metals:	
Arsenic	$20.00
Selenium	$20.00
Mercury	$25.00
Other metals (per parameter)	$15.00
BETX (OA-1)	$40.00
VPH (OA-1)	$40.00
BETX & VPH (OA-1)	$45.00
USEPA Tests:	
608 Organochlorine Pesticides and PCBs	$70.00
624 Volatile Organic Compounds	$140.00
625 Base or Neutral Organic Compounds; or	$290.00
625 Acid or Organic Compounds	$290.00

G. Fees for analysis performed by laboratories other than the WRA laboratory shall be the full cost of each analysis.

H. Fees for rescheduling a scheduled inspection with WRA personnel, with less than 24 hours' notice or if appropriate facility managers are unavailable at the scheduled time of inspection, shall be $100.00 per rescheduled inspection.

I. Fees for copying and mailing documents shall be $1.00 for the initial page and $0.25 for each additional page plus postage. No charges shall be assessed for requests for copies received from individuals or agencies served by the WRA, provided the number of pages requested does not exceed ten.

J. Fees for past due reminders sent each 30 days that a balance remains unpaid shall be $5.00.

K. Prohibitive waste charges for each pollutant discharged in excess of permit or ordinance limits shall be $50.00 per violation for Class B Permit holders and $100.00 per violation for Class A Permit holders. Charges shall double if discharges exceed slug threshold values. Payment of fees does not preclude other enforcement action and may not be paid in lieu of compliance with discharge limitations.

L. At the WRA's discretion, administrative cost recovery fees may be assessed separately to a user or added to a user's disposal fee for actions or occurrences subject to Division 6 of this chapter which result in the need for additional labor, equipment, or materials from the WRA or its contractors, including, but not limited to, cleanup of spills, infrastructure maintenance, improper scale transactions, improper disposal, and waste source verification. Fees shall be assessed based on the actual costs incurred by the WRA, or on the estimated costs incurred by the WRA rounded down to the nearest multiple of 20 based on actual rates for labor, materials, and equipment with a minimum fee of not less than $20.00. Fees under this Paragraph L will be charged in

addition to charges, fines, fees, or other costs associated with rejected, unapproved, or atypical wastes under Sections 100.81 and 100.82.

2. All users contributing wastewater in excess of the following concentrations shall be assessed a surcharge, which shall be in addition to the rates and charges ordinarily billed to such users for sewer use. Commencing October 1, 2022, until June 30, 2025, surcharges shall be assessed in accordance with the following rate schedule:

	Surcharge per Pound of Pollutant for the Period:		
Pollutant	**10/1/2022 - 06/30/2023**	**07/01/2023 - 06/30/2024**	**07/01/2024 - 06/30/2025**
Total suspended solids in excess of 250 mg/l	$0.18	$0.20	$0.22
BOD or CBOD in excess of 200 mg/l	$0.14	$0.17	$0.21
TKN in excess of 30 mg/l	$0.55	$0.49	$0.42
Oil and grease in excess of 100 mg/l	$0.08	$0.10	$0.11

Commencing on July 1, 2025, surcharge rates listed in the above table shall be annually adjusted as of July 1 of each year to increase two percent per annum rounded to the nearest whole cent.

Chemical oxygen demand (COD) in excess of 300 mg/l may be used at the discretion of the WRA Director in lieu of CBOD. In such case the excess COD concentration shall be multiplied by the known CBOD or COD ratio or by a ratio of two-thirds to establish an equivalent CBOD concentration.

Ammonia nitrogen (NH3-N) in excess of 15 mg/l may be used at the discretion of the WRA Director in lieu of TKN by multiplying the excess NH3-N concentration times two to establish an equivalent TKN concentration.

3. The establishment and imposition of new or different fees or charges, in addition to or in substitution for those provided above in this section, shall be by ordinance amending this chapter. The amounts of the fees and charges established in this section shall be and remain in effect until such time as the WRA Board shall, by resolution, revise said fee amounts. Said revised fees and charges shall take effect after the Board causes said resolution to be sent to this Council and thereafter causes same to be published in a newspaper of general circulation in each county in which participating communities are located.

100.22 RESERVED.

[The next page is 821]

DIVISION 3. INDUSTRIAL WASTEWATER DISCHARGE PERMITS AND REPORTING REQUIREMENTS

100.23 CLASSES OF PERMITS. Discharge permit classifications shall be as follows:

1. Class A Permit issued to a user discharging 25,000 gallons per day or more of process wastewater (excludes sanitary, non-contact cooling, and boiler blowdown).

2. Class B Permits issued to a user discharging less than 25,000 gallons per day of process wastewater.

100.24 PERMIT REQUIREMENTS.

1. All new industrial users shall notify the WRA Director of the nature and characteristics of their proposed discharge 180 days prior to commencing discharge. A notification form prescribed by the WRA shall be used for this purpose.

2. Significant users shall discharge wastewater, either directly or indirectly, into the POTW only after obtaining a Wastewater Discharge Permit from the WRA Director. Obtaining a Wastewater Discharge Permit does not relieve a user of the obligation to obtain other permits required by federal, State, or local law.

3. Other users, including waste haulers, shall obtain permits as required by the WRA Director.

100.25 PERMIT APPLICATIONS; BASELINE MONITORING REPORTS; COMPLIANCE ISSUES. Users applying for a Wastewater Discharge Permit or categorical users submitting a baseline monitoring report shall submit the following information as required by 40 CFR 403.12 or by the WRA Director:

1. Users applying for a Wastewater Discharge Permit must submit an application form prescribed by the WRA and accompanied by the application fee. All new significant users must submit such application 180 days prior to the date of any wastewater discharge.

2. Existing users subject to new *National Categorical Pretreatment Standards* must, within 180 days after the effective date of the standard, submit a baseline monitoring report prescribed by the WRA. New users subject to *National Categorical Pretreatment Standards* must submit a baseline monitoring report prescribed by the WRA at least 90 days prior to commencement of discharge to the POTW. A baseline monitoring report shall include:

A. Name, address, and location of the facility, if different from the mailing address.

B. Name of the operator and owners of the facility.

C. A list of all environmental control permits held by or for the facility.

D. A description of the operations including the average rate of production, applicable Standard Industrial Classification (SIC) codes, schematic process diagrams, and points of discharge to the POTW from regulated processes.

E. Daily average and daily maximum flow measurements for regulated process waste streams and nonregulated waste streams where necessary.

F. The categorical user shall identify the pretreatment standards applicable to each regulated process and shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required) of pollutants contained therein which are limited by the applicable pretreatment standards from each regulated process.

G. The user shall take a minimum of one representative sample immediately downstream of any pretreatment facility or immediately downstream of each regulated process if no pretreatment exists and prior to mixing with other waste to compile that data necessary to comply with this requirement. If non-regulated wastewater is mixed with regulated wastewater prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the WRA Director. Sampling and analysis shall be performed in accordance with 40 CFR 136 or other verified method approved by the WRA Director.

H. The time, date, and place of sampling, methods of analysis, and certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

I. Historical data may be allowed by the WRA Director so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

J. Certification by an authorized representative of the user as referenced in Section 100.35 and certified to by a qualified professional indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required for the user to meet pretreatment standards and requirements.

K. If additional pretreatment or O and M will be required to meet pretreatment standards, requirements, discharge limits as set forth in Sections 100.11, 100.12, and 100.13, or any other limit set by the WRA Director, the user shall supply a compliance schedule indicating the shortest time schedule necessary to accomplish installation or adoption of such additional pretreatment of O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. Such schedule shall include, where applicable, but shall not be limited to, dates for the hiring of an engineer, completing preliminary plans, executing contracts for major components, commencing construction, beginning operation, and conducting routine operations.

(2) No increment referred to in Subsection (2)(K-L) of this section shall exceed nine months, nor shall the total compliance period exceed 18 months.

(3) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the WRA Director, including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the WRA Director.

L. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants required, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The WRA Director may waive flow-proportional composite sampling for any user who demonstrates that flow-proportional sampling is not feasible. In such cases, samples may be obtained through time-proportional techniques or through a minimum of four grab samples where the user demonstrates that such sampling will provide a representative sample of the effluent being discharged.

3. New significant users not subject to categorical standards shall submit analysis of wastewater representative of the effluent discharged to the POTW as required in Subsection (2)(G-I) of this section for all parameters deemed necessary by the WRA Director.

4. New or existing industrial users nor subject to categorical pretreatment standards who fail to meet local, State, or federal pretreatment standards or other permit requirements on a consistent basis shall be subject to compliance schedules for additional pretreatment or O and M as outlined in Subsection (2)(K) of this section.

5. All applications and reports must contain the certification statement and be signed in accordance with Section 100.35 of this division.

100.26 REPORT ON COMPLIANCE BY CATEGORICAL USERS. Users subject to *National Categorical Pretreatment Standards* shall submit a report to the WRA Director containing the information described in Section 100.25(2) within 90 days following the date for final compliance with applicable *National Categorical Pretreatment Standards* or, if a new source, following commencement of discharge. Users subject to equivalent mass or concentration limits shall provide a reasonable measure of the user's long-term production rate. For all other users subject to *National Categorical Pretreatment Standards* expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All reports must contain the certification statement and be signed in accordance with Section 100.35.

100.27 PERMIT CONTENTS. Wastewater Discharge Permits shall include such conditions as are reasonably deemed necessary by the WRA Director to prevent passthrough or interference; protect the quality of the water body receiving effluent from the POTW; protect worker health and safety; facilitate the WRA's sludge management and disposal program; and

protect against damage to the POTW. The WRA Director may include the following items in the permit, and such additional items as the Director determines necessary or prudent.

1. Limits on the average or maximum rate of discharge, time of discharge, or requirements for flow regulation and equalization.

2. Limits on the average or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.

4. Development and implementation of spill control plans or other special conditions, including additional management practices necessary to adequately prevent accidental, unanticipated, or prohibited discharges.

5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

6. Requirements for installation and maintenance of inspection, sampling, and flow monitoring facilities and equipment for each separate discharge into the POTW.

7. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

8. Compliance schedules.

9. Requirements for submission of technical reports or discharge reports and which may include production data.

10. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the WRA Director and affording the Director or the Director's representatives access thereto.

11. Requirements for the notification of any substantial change in the manufacturing processes, pretreatment processes, quantity or quality of waste discharged to the POTW 90 days prior to such change. The WRA Director shall approve, deny, or condition a changed discharge prior to a change occurring in accordance with Section 100.10(1)(D).

12. Requirements for notification of excessive, accidental, or slug discharges.

13. Other conditions as deemed appropriate by the WRA Director to ensure compliance with this chapter, and State and federal laws, rules, and regulations.

14. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit.

100.28 PERMIT DURATION AND RENEWAL. Permits required under this division shall be issued for a specified time period, not to exceed five years. Permit fees shall be due annually to the WRA regardless of the term of the permit. Permitted users shall apply for a new permit by submitting a completed permit application a minimum of 90 days prior to the expiration of the user's existing permit.

100.29 CONTINUATION OF EXPIRED PERMITS. Expired permits issued pursuant to this division shall remain effective and enforceable until the permit is reissued, unless the user is notified of permit termination by the WRA Director.

100.30 PERMIT MODIFICATIONS.

1. The WRA Director may modify the permit issued pursuant to this division for good cause, including, but not limited to, the following:

A. To incorporate any new or revised federal, State, or local pretreatment standard or requirement. After becoming aware of more stringent standards or requirements, the WRA will, as necessary, update permits within 90 days;

B. To make material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit;

C. To make a change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Upon receipt of information indicating that the permitted discharge poses a threat to the POTW, to the City, Sanitary District, the WRA or operating contractor personnel, or to the receiving water;

E. Upon occurrence of a violation of any terms or conditions of the permit;

F. Misrepresentation of, or grant of variance from, such categorical standards pursuant to 40 CFR 403.13;

G. To correct typographical or other errors in the permit;

H. To reflect transfer of ownership or operation of the permitted facility to a new owner or operator; or

I. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

2. The filing of a request by the permittee for permit modification, revocation, and reissuance, termination, or a notification of planned changes or anticipated noncompliance shall not have the effect of staying or delaying the implementation or effective date of any permit condition.

100.31 PERMIT TRANSFER. An Industrial Wastewater Discharge Permit is not transferable to any other person or entity. A new owner or operator must apply for a new Wastewater Discharge Permit 60 days prior to taking ownership or undertaking operation of a permitted facility.

100.32 DENIAL OF PERMIT. The WRA Director may deny a wastewater discharge permit to any user whose discharge of material to the POTW, whether shown upon application, including test results submitted by the applicant, or determined after inspection or testing conducted by the WRA or its operating contractor, is not in conformity with this chapter or whose application is incomplete or does not comply with the requirements of Section 100.25 of this division.

100.33 PERMIT VIOLATIONS. Any violation of the terms, conditions, or limits of a user's Wastewater Discharge Permit shall be deemed a violation of this chapter and shall subject the user to all enforcement procedures outlined in this chapter.

100.34 PERIODIC COMPLIANCE REPORTS. Under this division, periodic compliance reports are required as follows:

1. Significant users shall submit to the WRA Director, during the months of January and July, a report indicating the nature, concentration, and flow of pollutants in the effluent which are limited by permit or pretreatment standards for the preceding six-month period. This report shall include a record of the monthly average flows and the daily flow for each analysis date during the reporting period. At the discretion of the WRA Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the WRA Director may agree to alter the months during which the reports are to be submitted. More frequent reports may be required by the WRA Director.

2. The WRA Director may impose mass limitations on users. In such cases, the report required by Subsection 1 of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. All analyses shall be performed using Environmental Protection Agency approved methods using sampling techniques approved by the Iowa Department of Natural Resources.

3. Users shall meet the certification and signatory requirements in Section 100.35 of this division for each report submitted under this section. Where the WRA itself collects all the information required for the report, including flow data, the industrial user will not be required to submit a periodic compliance report.

4. A user must notify the WRA Director of all violations identified as a result of self-monitoring to the POTW by telephone, during normal business hours, within 24 hours of the time the user becomes aware of such violation. The user must also submit the results of repeat analyses to the WRA within 30 days after becoming aware of the violation, together with a complete report on all steps taken to resolve the violation. The user need not repeat the analyses if:

   A. The WRA performs sampling of the industrial user at a frequency of at least once per month; or

   B. The WRA performs sampling of the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

5. A user who monitors any pollutant more frequently than required by the WRA or who self-monitors in addition to WRA monitoring, using Environmental Protection Agency methods or standard methods, shall report the monitoring results to the WRA Director in accordance with Subsections 1, 3, and 4 of this section.

100.35 CERTIFICATION AND SIGNATORY REQUIREMENTS.

1. All applications or reports submitted by a user pursuant to this division shall contain the following certification statement:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on

my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. All applications and reports shall be signed by an authorized representative of the user as defined in Section 100.01 of this chapter. A user shall maintain a current and accurate authorization on file with the WRA Director.

100.36 MONITORING FACILITIES.

1. When required by the WRA Director pursuant to this division, each permitted user shall, at their expense, provide and operate monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems. The WRA Director may require the placement of such monitoring facilities at the end of each process where pollutants are used, produced, or treated. The monitoring facility should normally be situated on the user's premises and located so that it will not be obstructed by landscaping or parked vehicles.

2. When required by the Wastewater Discharge Permit and within 90 days of written notification, a user shall install a sampling chamber for each separate discharge of the building sewer in accordance with plans and specifications approved by the WRA Director. A user shall provide ample room in or near such sampling chamber to allow accurate sampling and preparation of samples for analysis. Each user shall, at their expense, maintain all sampling and measuring equipment in a safe and proper operating condition at all times, which equipment shall be safely, easily, and independently accessible to authorized representatives of the WRA. Users shall certify all flow measuring devices to be in proper working condition at a frequency specified in the permit or in writing by the WRA Director, using a qualified technician acceptable to the WRA Director. Sampling shall be in accordance with the following:

A. Each sampling chamber shall contain a flume unless another device is approved by the WRA Director, with a recording and totalizing device for measurement of the liquid quantity.

B. At the discretion of the WRA Director, metered water supply to a user may be used as the volume quantity where it is substantiated that the metered water supply and waste quantities are approximately the same, or where a measurable adjustment agreed to by the Director is made in the metered water supply to determine the liquid waste quantity. Separate meters may be used to subtract water which is not discharged to the POTW or is discharged to a sewer other than the sampled location.

C. Samples shall be taken at a frequency and volume determined by the WRA Director and shall be properly refrigerated and preserved in accordance with Environmental Protection Agency approved methods. The sample shall be composited in proportion to the flow for a representative 24-hour sample. A time proportioned 24-hour sample may be used if flow proportioned sampling is determined by the WRA Director to be impractical. Grab samples shall be used where appropriate.

3. A user must inform the WRA Director prior to breaking a sampler seal, used by the WRA to detect sample tampering, unless necessary to prevent loss of life,

personal injury, or severe property damage. A user shall not place additional seals or locks upon a sampler which may be used by the WRA without first obtaining approval from the WRA Director.

100.37 INSPECTION, SAMPLING, AND RECORD KEEPING AUTHORITY. Under this division, users shall be deemed to have given the following authorities to the WRA and its operating contractor:

1. Users shall permit authorized representatives or agents of the WRA to enter upon all properties and all parts of the premises, or upon properties of users with Wastewater Discharge Permits, for the purposes of inspection, sampling, records examination, records copying, or the performance of any of their duties. This shall include the right to set up, on the user's property, such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering operations as may be required in pursuance of the implementation and enforcement of this chapter.

A. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements in the security measures so that, upon presentation of suitable identification, WRA or operating contractor personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

B. All users subject to any of the reporting requirements of this chapter shall maintain copies of reports and records of all information as required in 40 CFR 403.12(o) resulting from any monitoring activities required by this chapter for a minimum of three years and shall make such records available for inspection and copying by the WRA and its operating contractor. This period of retention shall be extended until the completion of any unresolved negotiation, hearing, or litigation involving a purported violation.

100.38 CONFIDENTIAL DOCUMENTS, DATA, AND INFORMATION.

1. Except as provided in this section, documents, data, and information obtained from user reports, questionnaires, permit applications, and inspections pursuant to this division shall be made available to the public or other governmental agencies without restriction. If the user specifically requests and is able to demonstrate that the release of such information would divulge information concerning processes or methods of production entitled to protection under law as trade secrets of the user or would give advantage to competitors and serve no public purpose, the WRA Director may determine that such information should be kept confidential and not made available for public examination, but such information shall be available to the U.S. Environmental Protection Agency or the Iowa Department of Natural Resources.

2. Decisions by the WRA Director to deny confidential status for information may be appealed using the procedures in Section 100.39 of this division. In determining whether information is confidential, the provisions of Chapter 22 of the *Code of Iowa* shall prevail.

3. Effluent data and enforcement actions by the WRA or its operating contractor will not be considered confidential records of information.

100.39 APPEAL OF DENIAL OF CONFIDENTIAL STATUS.

1. Any person aggrieved by the WRA Director's decision to release information or data obtained as provided in Subsection 100.38(1) of this division and who can demonstrate a direct and substantial interest in the information or data sought to be kept confidential may appeal the WRA Director's decision. A request for appeal shall be filed in writing with the WRA Director not less than five days after the WRA Director's decision to deny confidential status to such information or data. The appeal request shall include a statement of the basis upon which the request for confidential status is made, as well as the appealing party's interest in the information or data sought to be kept confidential. The WRA Director may request additional information from the appealing party.

2. Based upon the information provided by the appealing party, the WRA Director shall make a determination with respect to the confidentiality of the information or data at issue. The WRA Director shall notify the parties, in writing, of the WRA Director's decision within seven days after receipt of the appeal.

3. If still aggrieved by the WRA Director's determination on appeal, a party may file an action in County District Court, seeking a declaratory ruling with respect to the confidentiality of such documents, data, and information, or seeking an injunction to prevent the disclosure of same.

4. During the pendency of an appeal to the WRA Director, the documents, data, or information at issue shall be kept confidential. However if, during the pendency of such appeal, a request for examination or copying of such documents, data, or information is made of the WRA or its operating contractor pursuant to Chapter 22 of the *Code of Iowa*, the WRA or its operating contractor will notify the appealing party of such request for disclosure and will keep confidential the requested documents, data, or information, pending action by the appealing party to defend its confidentiality request. In that notification, the appealing party requesting confidentiality will be given not more than five calendar days within which to file suit in County District Court seeking the entry of a declaratory order or injunction to protect and keep confidential such documents, data, or information. If the appealing party fails to initiate suit within the time requested, the WRA Director shall release the documents, data, or information at issue for public examination.

5. If, during the pendency of such appeal, a lawsuit is initiated pursuant to Chapter 22 of the *Code of Iowa* seeking the release of such documents, data, or information, the appealing party shall take action to defend its confidentiality request in said lawsuit. If the appealing party fails to defend its confidentiality request in said suit, the WRA Director shall release the documents, data or information at issue for public examination.

100.40 RESERVED.

[The next page is 835]

DIVISION 4. ENFORCEMENT OF INDUSTRIAL WASTEWATER REGULATIONS

100.41 PUBLIC NOTIFICATION OF SIGNIFICANT NONCOMPLIANCE. The WRA will annually publish, in the largest daily newspaper published in the WRA community, a list of users who at any time during the previous 12 months were in significant noncompliance as defined in Section 100.42 of this division.

100.42 SIGNIFICANT NONCOMPLIANCE.

1. Any violation of pretreatment requirements under this chapter (i.e. including, but not limited to, those relating to limits, sampling, analysis, reporting, meeting compliance schedules, and regulatory deadlines) is an instance of noncompliance for which the user is liable for enforcement, including penalties and injunctive relief. Instances of significant noncompliance are user violations which meet one or more of the following criteria:

A. Violations of wastewater discharge limits as follows:

(1) Chronic Violations. Sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance).

(2) Technical Review Criteria (TRC) Violations. Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period. (e.g., limit x TRC = the point at which a violation becomes a TRC violation). There are two groups of TRCs as follows:

Group I for conventional pollutants (BOD, TSS, FOG)	TRC = 1.4
Group II for all other pollutants	TRC = 1.2

(3) Any other violation of a Wastewater Discharge Permit limit (average or daily maximum) that the WRA Director believes has caused, alone or in combination with other discharges, interference, including slug loads, or pass through or which endangers the health of City, Sanitary District, WRA, or operating contractor personnel or the public.

(4) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment and has resulted in the WRA's exercise of its emergency authority to halt or prevent such a discharge.

B. Violations of compliance schedule milestones, contained in a Wastewater Discharge Permit or enforcement order, for starting construction, completing construction, or attaining final compliance by 90 days or more after the schedule date.

C. Failure to provide reports for compliance schedules, self-monitoring data, or any other report required by the WRA within 45 days from the due date.

D. Failure to accurately report noncompliance.

E. Any other violation or group of violations, which may include a violation of Best Management Practices, that the WRA Director considers to be significant.

2. When a user is in significant noncompliance, the WRA Director is directed to:

A. Report the information to the Iowa Department of Natural Resources as part of the annual pretreatment performance summary of permitted user noncompliance.

B. Include the user in the annual public notification according to Section 100.41 of this division.

C. Address significant noncompliance through appropriate enforcement actions or document in a timely manner the reasons for withholding enforcement.

100.43 ADMINISTRATIVE ACTIONS.

1. The WRA Director may issue a written notice to the user giving the specific nature of violations which shall include the frequency, magnitude, and impact of the violation upon the POTW. The notice may also include the following:

A. An order requiring a plan of action for preventing reoccurrence of the violation.

B. An order requiring specific action for accomplishing remediation.

C. An order requiring the user to respond in writing within 30 days.

2. The WRA Director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for any noncompliance. Such orders will include specific action to be taken by the user to correct noncompliance within a time period specified by the order.

3. The WRA Director may issue enforceable orders or schedules to require compliance with pretreatment standards including appropriate interim limits. Such orders and schedules may be incorporated as a revision to an existing Wastewater Discharge Permit and shall not require the consent of the user.

100.44 ACTIONS AUTHORIZED.

1. Where there has been noncompliance with any section of this chapter, the WRA Director may request the WRA operating contractor's attorney, or the attorney retained by the WRA for that purpose, to bring an action in equity or at law to seek the issuance of a preliminary or permanent injunction, or both, or such other relief as may be appropriate, to compel the user's compliance with this chapter.

2. In addition to other remedies provided under this section or other sections of this chapter, in any action brought at the request of the WRA Director to enforce this chapter, the WRA operating contractor's attorney, or the attorney retained by the WRA, is authorized to seek to recover all actual damages suffered by the City, Sanitary District, or the WRA, including all actual damages and losses related to costs of repair and remediation of the POTW, costs of investigation and administration reasonably related to any particular violation, and attorneys' fees.

100.45 CIVIL PENALTIES.

1. Each violation of any section of this chapter or of a permit issued under this chapter is declared to be a municipal infraction. Each day that a violation of a section of this chapter continues, and each day that a violation of a permit issued under this chapter continues, shall be considered a separate municipal infraction.

2. Any person who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or a Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, commits a municipal infraction punishable by a civil penalty as provided in Subsection 4 hereof.

3. Any person who fails to perform an act required by the provisions of this chapter, or who commits an act prohibited by the provisions of this chapter, commits an environmental violation and shall be guilty of a municipal infraction, punishable by a civil penalty. Violation of a pretreatment standard or requirement referred to in 40 CFR 403.8 is an environmental violation punishable by a civil penalty as hereafter provided in Subsection 4 hereof.

4. Whenever in this division any act is prohibited and is declared to be a municipal infraction or whenever in in this division the doing of any act is required and the failure to do that act is declared to be a municipal infraction, the violation of any such provision shall be punishable by a civil penalty of not more than $750.00 for each violation or, if the infraction is a repeat offense, $1,000.00 for each repeat offense. However, a municipal infraction which is classified as an environmental violation or which arises from noncompliance with a pretreatment standard or requirement referred to in 40 CFR 403.8, by an industrial user may be punishable by a civil penalty of not more than $1,000.00 for each day a violation exists or continues. Each day a violation of a provision of this division continues shall be considered a separate municipal infraction.

100.46 PERFORMANCE AND PAYMENT BONDS.

1. The WRA Director may decline to reissue a permit to any user who has failed to comply with this chapter, or any order or previous permit issued under this chapter unless such user first files a satisfactory bond payable to the WRA in a sum not to exceed the value determined by the WRA Director to be necessary to achieve compliance, giving due consideration to the number and magnitude of previous violations, potential need for remediation, and stating the reasons which support the amount of bond in a written order directed to the user, but in no case shall the bond be required to be greater than $100,000.00. The user shall use a bond form prescribed by the WRA.

2. The WRA Director may require any user, including any permitted or non-permitted waste generator which sends its wastewater by truck to the WRF, to obtain a bond payable to the WRA with reasonable surety in a penal sum which will adequately cover treatment costs, surcharges, fees, or any other charges associated with discharge of wastewater to the POTW in the amount as listed in Section 100.75. The user shall use a bond form prescribed by the WRA.

100.47 REVOCATION OF DISCHARGE PERMIT; TERMINATION OF SEWER SERVICE.

1. Grounds for Revocation of Discharge Permit or for Termination of Sewer Service. Any user who violates this chapter, any condition of its Wastewater Discharge Permit, or any of the following is subject to having its discharge permit revoked or its sewer service terminated in accordance with the procedures of this section:

A. Failure to accurately report the wastewater constituents and characteristics of its discharge.

B. Failure of the user to report substantial changes in process activity or in volume or character of pollutants being discharged into the POTW at least 90 days prior to such change.

C. Tampering with monitoring equipment.

D. Refusal to allow reasonable access by WRA or operating contractor personnel to the user's premises for the purpose of inspection, monitoring, or sampling.

E. Violation of permit conditions.

F. Failure to report an upset, failure, or bypass of the user's pretreatment facilities.

G. Failure to pay fines, fees, surcharges, or sewer user charges.

H. Failure to follow enforcement orders or compliance schedules.

I. Failure to correct a condition that impedes or alters the WRA's ability to monitor the user's discharge or has the potential to cause interference or pass through.

J. Failure to obtain a Wastewater Discharge Permit as required by this chapter after notification by the WRA Director that such permit is required.

K. Failure to pay actual costs for negligent damage, or actual costs and penalties charged for grossly negligent or intentional damage, to the POTW not addressed elsewhere in this chapter.

2. Procedure for Revocation of Discharge Permit and for Termination of Sewer Service. The procedure for revocation of a discharge permit and termination of sewer service shall be as follows:

A. Any permit issued to a user pursuant to this chapter may be revoked, and sewer service terminated, by written order of the WRA Director, specifying the grounds for such revocation and termination as outlined in Subsection 1 of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to revoke a user's discharge permit and terminate sewer service, the WRA Director shall cause a notice of hearing to be prepared, specifying the violations of Subsection 1 of this section which are deemed to have occurred, and the time, date, and place that such hearing will be held. The notice shall be sent to the user by regular mail addressed to the user's address listed on the Wastewater Discharge Permit a minimum of 10 days prior to the date set for hearing and shall be deemed delivered when placed in the mail.

B. Sewer service may be terminated by written order of the WRA Director, specifying the grounds for such revocation and termination as outlined in Subsection 1(J) of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to terminate sewer service, the WRA Director shall cause a notice of hearing to be prepared, specifying the violation of Subsection 1(J) of this section, which is deemed to have occurred, and the time, date, and place that such hearing will be held. The notice shall be sent to the user by regular mail addressed to the user's address a minimum of 10 days prior to the date set for hearing and shall be deemed delivered when placed in the mail.

C. If, after such a hearing, the WRA Director makes a finding based on substantial evidence that violations under Subsection 1 of this section have occurred as alleged, the Director may issue an order immediately revoking the permit, if a permit had previously been issued, and terminating sewer service to the user's premises. The determination to revoke such permit and terminate service, shall be in the discretion of WRA Director and shall be dependent upon the circumstances surrounding the user's violations of Subsection 1 of this section and the severity of those violations. If the user does not appear for the hearing, the WRA Director shall issue the order revoking the discharge permit or terminating sewer service, which shall take effect immediately.

D. The decision and order of the WRA Director to revoke the permit of a user may be appealed to the WRA Appeal Committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the Director's entry of the order of revocation of permit or termination of sewer service. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee
% Des Moines Metropolitan Wastewater Reclamation Authority
3000 Vandalia Road
Des Moines, IA 50317

The Chair of the Appeal Committee shall schedule the appeal and shall cause notice of the time, date, and place of the hearing to be mailed to the appealing user. Such appeal shall be decided by majority vote of the Appeal Committee. If the Appeal Committee affirms the order of the WRA Director revoking the permit or terminating sewer service, the Appeal Committee shall so state and order in its written decision.

E. A user whose permit has been revoked shall not be eligible for another permit until 30 days after the violating conditions have been corrected to the satisfaction of the WRA Director.

F. Upon determination by the WRA Director that the user's sewer service connection to the POTW be terminated, the Director's written order shall be sent to the City Public Works Department who shall cause the user's connection to the sewer to be severed or plugged. The manner of severance and procedure for disconnection shall be determined by the City Public Works Department. Upon completion of the disconnection, the City Public Works Department shall certify to the WRA Director the City's cost to disconnect the user's sewer service. Upon receipt of such certification of costs, the WRA Director shall

forward to the user whose service was disconnected, by registered mail return receipt requested, certified mail, or personal service a bill for the cost of making the disconnection, including all costs for labor and materials, and a service charge of $500.00 for WRA supervision.

G. Any building at which sewer service is disconnected as herein provided shall be inspected by the City Building Official and, if appropriate, shall be red-tagged as unfit for human occupancy.

100.48 RESERVED.

100.49 REINSTATEMENT OF SERVICE. If service is severed pursuant to this division, the service may be reinstated in the following manner:

1. Upon payment to the WRA of any delinquency in full, supervision fee of $500.00, and an inspection by the WRA Director to determine whether the original cause for termination has been corrected, the WRA will issue a permit for reconnection of the building service line to the POTW. Such reconnection costs, plus inspection fees for the City in accordance with this Code, shall be at the sole expense of the user.

2. Upon reconnection and payment of all costs described in Subsection 1 of this section, the City or Sanitary District, through its agents, shall remove the red tag from the building, and the building shall, so far as the City or Sanitary District is concerned, be fit for human occupancy.

100.50 EMERGENCY DISCONNECTION OF SERVICE.

1. Conditions for Immediate Disconnection of Service. The WRA Director may, after informal notice, suspend the Wastewater Discharge Permit of, and sewer service to, a user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

2. Procedure for Immediate Disconnection. The procedure for immediate disconnection shall be as follows:

A. When the WRA Director determines that a discharge as described in Subsection 1 of this section exists, an oral order shall be issued, followed immediately by a written order, to the user stating the problem and requiring immediate cessation of the discharge. A user orally notified of a suspension of its Wastewater Permit or sewer service shall immediately stop or eliminate all discharges. If a user fails to immediately and voluntarily comply with the suspension order, the WRA Director shall take immediate action to eliminate the discharge, including disconnection from the POTW. Methods of informal notice to a user shall include, but not be limited, any of the following: personal conversations between user and personnel or the WRA or its operating contractor, telephone calls, letters, hand-delivered messages, or notices posted at the user's premises or point of discharge.

B. A user responsible, in whole or in part, for imminent endangerment shall submit to the WRA Director, prior to the hearing described in Subsection 100.47(2) of this division, a detailed written report describing the causes of the endangerment and the measures taken to prevent any future occurrence.

100.51 ELIMINATION OF DISCHARGE; REINSTATEMENT OF PERMIT. A user notified by the WRA Director of revocation of its discharge permit or disconnection of its sewer service under Section 100.47 or Section 100.50 of this division shall immediately cease discharging wastewater to the POTW. If the user fails to comply voluntarily with the revocation or disconnection order, the City or Sanitary District shall take such steps as are deemed necessary by the WRA, including immediate severance of the sewer connection. The WRA Director shall reinstate the Wastewater Discharge Permit or the sewer service upon proof of the elimination of the non-complying discharge.

100.52 ADDITIONAL REMEDIES.

1. In addition to remedies available to the WRA set forth elsewhere in this chapter, if the WRA is fined by the Iowa Department of Natural Resources or the U.S. Environmental Protection Agency for violations of the National Pollutant Discharge Elimination System Permit for the WRF, or for violations of water quality standards as the result of a discharge of pollutants by an identifiable user, the fine, and all legal, sampling, analytical testing costs, and any other related costs, shall be charged to the responsible user. Such charge shall be in addition to any other remedies the WRA may have under this chapter at law or in equity.

2. If the discharge from any user results in a deposit, obstruction, damage, or other impairment to the POTW, the user shall become liable to the City or Sanitary District or the WRA for any expense, loss, or damage caused by the violations or discharge. The WRA may add to the user's charges and fees the costs incurred by the WRA and by the City or Sanitary District for any cleaning, repair, or replacement work caused by the violations or discharge.

3. The remedies provided in this chapter shall not be exclusive, and the WRA may seek whatever other remedies are authorized by statute, at law or in equity against any persons violating this chapter.

4. In addition to any other remedies provided in this chapter, the City or the Sanitary District or the WRA may initiate an action, either in law or in equity, to obtain an injunction against further violations of this chapter and for judgment for all costs incurred by the City, Sanitary District, or the WRA occasioned by the user's violation of any requirements of this chapter.

100.53 NOTICES TO THE WRA, THE WRA BOARD, THE WRA DIRECTOR, OR THE WRA STEERING COMMITTEE. Notices which are required to be given or which may be given to the WRA, the WRA Board, the WRA Director, or the WRA Appeal Committee, as provided in this chapter, shall be mailed to such entity, body, or person at the following address:

Des Moines Metropolitan Wastewater Reclamation Authority
Des Moines Wastewater Reclamation Facility
3000 Vandalia Road
Des Moines, IA 50317

100.54 RESERVED.

[The next page is 847]

DIVISION 5. REGULATIONS OF FAT, OIL, AND GREASE DISCHARGE BY FOOD SERVICE ESTABLISHMENTS

100.55 PURPOSE. The purpose of this section shall be to aid in the prevention of sanitary sewer blockages and obstructions from contribution and accumulation of fat, oil, and grease (FOG) into the POTW. Such discharges from commercial kitchens, restaurants, food processing facilities, and all other establishments, where fat, oil, and grease of vegetable or animal origin are discharged, directly or indirectly, into the POTW, can contribute to line blockages or spills in violation of Title 40, *Code of Federal Regulations* 40 CFR, Part 403.

100.56 DEFINITIONS. The definitions found in Section 100.01 shall apply to the provisions of this division, provided, however, that the following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Best Management Practices" or "BMPs" means and includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. For purposes of this division, "best management practices" include procedures and practices that reduce the discharge of FOG to the building sewer, to the City sanitary sewer system, and to the POTW.

2. "Design liquid depth" means the maximum depth of liquid when the tank is filled with water.

3. "Effective date" means the date set forth in Section 100.57 upon which the regulatory provisions of this division take place.

4. "Food Service Establishment" or "FSE" means an operation or enterprise that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Such facilities may include, but are not limited to, those that process meat or other food ingredients as an intermediate step or for final human consumption, food service operations in a summer camp, residential substance abuse treatment facility, halfway house, correctional facility, school, restaurant, commercial kitchen, caterer, church, hotel, bars, hospital, prison, care institution, or similar facility.

5. "Grease interceptor" means a tank that serves one or more fixtures and is remotely located. Grease interceptors include, but are not limited to, tanks that capture wastewater from dishwashers, garbage disposals, floor drains, pot and pan sinks, and trenches as allowed by local plumbing codes. For purposes of this chapter, a grease interceptor is a multi-compartment tank located underground outside of a building that reduces the amount of FOG in wastewater prior to its discharge into the POTW.

6. "Grease trap" means a device designed to retain grease from one to a maximum of four fixtures. Not all grease traps are approved by the manufacturer for use on heated water (e.g., dishwasher) or in-line to a waste disposal unit (e.g., garbage disposal and grinders). For purposes of this chapter, a grease trap is a small device located within a building.

7. "Minimum design capability" means the design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the POTW.

8. "Non-routine inspection" means an impromptu, unscheduled inspection of an FSE made without prior notification or arrangement.

9. "Routine inspection" means an inspection of an FSE which is scheduled in advance or according to a pre-arranged schedule.

10. "User" as used in this division has the same meaning as the definition in Section 100.01 but also includes persons who discharge wastewater to the POTW from mobile sources, such as mobile food vendors.

100.57 EFFECTIVE DATE OF FOG REGULATIONS. The provisions of this division shall be effective upon passage by the Council and publication.

100.58 GREASE INTERCEPTOR INSTALLATION REQUIRED AND EFFECTIVE DATE. The owner of a building or facility in which an FSE is located, and the owner or operator of an FSE shall be required to install an approved grease interceptor, and to thereafter operate and maintain same as provided in this division.

100.59 EXEMPTION FROM GREASE INTERCEPTOR INSTALLATION REQUIREMENTS FOR EXISTING FACILITIES. The requirements of Section 100.58 shall not apply to that portion of a building or facility within which an FSE is in existence on the effective date if:

1. The FSE has an existing grease interceptor or grease trap in place as of the effective date and provided that:

   A. The owner or occupant of the FSE continues to use the interceptor or trap;

   B. The interceptor or trap is of sufficient capacity and design; and

   C. The interceptor or trap is operated and maintained so as to comply with FOG discharge limits.

2. Any repair, remodeling, or renovation of the wastewater plumbing system in the existing FSE involves only:

   A. The repair of leaks or the clearing of stoppages in drains, soil, waste, or vent piping; or

   B. The removal and reinstallation of a sink, toilet, or hot water heater; provided that such work does not involve replacement, rearrangement, or moving of wastewater pipes, floor sinks, drainage fixtures, or grease traps; and

3. None of the following conditions are present:

   A. A building or facility exists on the effective date and is thereafter expanded or renovated, or a portion thereof, to include an FSE where such FSE did not previously exist; or

   B. An FSE exists on the effective date within a building or facility, or portion of a building or facility, and application is thereafter made for a building permit for such building or facility with valuation of $50,000.00 or more within a 12-month period; or

   C. A building or facility, or portion thereof, that contained an FSE on the effective date, but in which an FSE ceases to operate for one year or more, as

determined by Iowa Department of Inspections and Appeals, Food and Consumer Safety Bureau records.

100.60 COMPLIANCE PROCEDURES.

1. After the effective date, any permitted construction under Section 100.58 shall be deemed compliant upon issuance of a Certificate of Compliance or Certificate of Occupancy for such construction by the City Building Official or designee.

2. An FSE shall be deemed compliant, unless the WRA Director or local building official or designee determines that an existing grease trap or grease interceptor is incapable of adequately retaining FOG. In such cases, the Director may order the FSE to install an adequate grease interceptor within a specified time period if:

A. The FSE is found to contribute FOG in quantities above FOG discharge limits; or

B. The FSE discharges necessitate increased maintenance on the publicly owned treatment works (POTW) in order to keep stoppages from occurring therein; or

C. The FSE's discharge to the POTW is at any time determined to exceed 400 mg/l total FOG.

3. An order directing an existing FSE, or the owner or operator of the FSE, or the owner of the building or facility in which the FSE is located to install a grease interceptor shall be in writing from the WRA Director in the form of a notice of violation including a corrective action order, as provided in Section 100.67 of this division.

4. FSEs or owners of buildings or facilities within which an FSE is located which are unable to install or replace a grease interceptor due to exceptional physical constraints or economic hardship may appeal to the WRA Director for approval of an alternative grease control technology by requesting a hearing in accordance with the provisions of this division. Such requests shall be submitted in writing and shall include detailed descriptions of the FSE's physical or financial constraints and the alternative grease control technology which it proposes to install and utilize.

A. In order to demonstrate exceptional economic hardship, the owner or operator of the FSE shall submit to the WRA Director balance sheets and profit and loss statements for FSE for the preceding three years. A new FSE shall submit profit or loss projections or a detailed business plan with projections for 24 months. Each request shall be evaluated on a case-by-case basis.

B. Notwithstanding approval of alternative grease control technology, when the WRA Director determines that such alternative is not performing adequately, the FSE or owner of the building or facility in which the FSE is located shall be required to take additional grease control measures, which may include the installation of a grease interceptor.

C. In order to demonstrate exceptional physical site constraints preventing the installation of a grease interceptor, the owner or operator of the FSE or owner of the building or facility in which the FSE is located shall submit to the WRA Director documentation and plats showing the location of City sanitary sewer and any private easements in relation to the building sewer for the building housing the FSE, and showing available space inside or outside the

building and drawings of existing plumbing at or in a site that uses common plumbing for all services at that site.

D. An FSE that is given an exemption from installing a properly sized grease interceptor is prohibited from installing or using a dishwasher or garbage disposal without approval of the Director and must comply with the conditions of such approval, if any.

100.61 INSTALLATION OF GREASE INTERCEPTORS AND GREASE TRAPS. Grease interceptors and grease traps, when required, shall be installed as follows:

1. Grease interceptors and grease traps shall be installed at the expense of the owner or operator of the FSE or owner of the building or facility in which the FSE is located which is contributing wastewater to the POTW.

2. All wastewater streams containing FOG or reasonably likely to contain FOG within FSEs or other FOG generating operations shall be directed into one or more appropriately sized grease interceptor before discharge to the POTW. Grease interceptors shall be either sized by adding the peak design flow rates for all fixtures leading to the grease interceptor and allowing a minimum retention time of 30 minutes or as follows:

Grease Interceptor Sizing		
1. Peak meals per hour		
	a. Seating capacity of FSE	_____
	b. Occupancy of FSE	_____*
	c. Seating or occupancy x meal factor of 1.3 (45-minute meal) or 1.0 (intermittent use FSEs) = Peak meals per hour	
	* Church: include all areas used for meal service	
	* Assisted living or nursing facility: equal to maximum number of residents (per State license)	
2. Waste flow rate, gallons of flow		
	a. Commercial, equipped kitchen with dishwasher and one garbage disposal*	7
	b. Commercial, equipped kitchen with dishwasher, no garbage disposal	6
	c. Commercial, equipped kitchen with no dishwasher, one garbage disposal*	6
	d. Commercial, equipped kitchen with no dishwasher, no garbage disposal	5
	e. Single service kitchen**	2
	* Each additional garbage disposal, add one gallon	
	** Single service kitchen = no garbage disposal, no dishwasher, and all service is single use	
3. Retention time, hours		
	a. Commercial kitchen	2.5
	b. Single service kitchen	1.5
4. Storage factor		
	a. Commercial kitchen up to eight hours of operation	1
	b. Commercial kitchen up to 12 hours of operation	1.5

Grease Interceptor Sizing								
	c. Commercial kitchen up to 16 hours of operation							2
	d. Commercial kitchen up to 20 hours of operation							2.5
	e. Commercial kitchen up to 24 hours of operation							3
	f. Single service kitchen							1.5
Peak meals per hour	X	Water flow rate	X	Retention time	X	Storage factor	=	Calculated interceptor size

3. Concrete grease interceptors, whether precast or poured in place, shall be designed and manufactured in accordance with ASTM C 1613-08 *Standard Specification for Precast Concrete Grease Interceptor Tanks* or IAPMO/ANSI Z1001 Grease Interceptors and shall be installed in accordance with the codes adopted by the jurisdiction in which the FSE is located. Where no code is adopted, the construction and installation shall be in accordance with the *State Plumbing Code* and this division. Grease interceptors using materials other than concrete require approval by the Director, and shall comply with the conditions of such approval, if any.

4. The Building Official or other designated official of the governmental subdivision within which the FSE is located shall inspect each grease interceptor installation made pursuant to this division, shall review all relevant information regarding the rated performance of the grease interceptor, and the building plan and facility site plan for the building and site where the grease interceptor has been installed, and shall approve such grease interceptor installation upon determination that the grease interceptor meets all applicable standards and requirements.

5. Grease interceptors shall have a minimum capacity of 1,000 gallons and shall not exceed 5,000 gallons for a single unit. Where a capacity greater than 5,000 gallons is required, several smaller units shall be installed in series, however the capacity shall not exceed 10,000 gallons for any single series of interceptors without approval of the Director.

6. Grease interceptors shall be installed outside the building housing the FSE and below surface grade, and shall have access manholes, with a minimum diameter of 24 inches, over each chamber and sanitary tee. Access manholes shall extend from the grease interceptor to at least the finished surface grade and be designed and maintained to prevent storm or surface water inflow and groundwater infiltration. The manholes shall also have readily removable covers to facilitate inspection and grease removal.

7. Sewer lines which are not grease laden, which are not likely to contain FOG, or which contain sanitary wastes shall not be connected to a grease interceptor.

8. Grease interceptors shall be equipped with an accessible discharge sampling port with a minimum six-inch diameter, which shall extend from the grease interceptor to at least the finished surface grade.

9. Where grease interceptors are shared by more than one FSE, the building owner shall be the responsible party for record keeping and cleaning of the interceptor.

100.62 OPERATION, MAINTENANCE, AND CLEANING OF GREASE INTERCEPTORS AND GREASE TRAPS AND GREASE HAULER CERTIFICATION.

1. The owner or operator of an FSE which is required to pass wastewater through a grease interceptor or trap shall operate and maintain the grease interceptor or trap so that wastewater exiting the grease interceptor or trap shall not exceed 400 milligrams per liter of FOG.

2. The owner or operator of the FSE shall cause the grease interceptor or trap to be cleaned as hereinafter required when FOG and solids reach 25 percent of the design liquid level of the grease interceptor or trap, or sooner, if necessary, to prevent carry-over of FOG from the grease interceptor or trap into the City sanitary sewer system. Interceptors and traps shall be cleaned at three-month intervals or less. A longer cleaning interval must be approved by the WRA Director. The owner or operator of the FSE shall employ a waste hauler licensed by the WRA pursuant to Division 6 of this chapter to clean the grease interceptor or trap, provided that the waste hauler personnel performing the cleaning has a current grease hauler certification from the WRA indicating satisfactory completion of the course of training offered by the WRA on the cleaning of grease interceptors and traps.

3. Any person who cleans a grease interceptor or trap shall do so in accordance with the following procedures and requirements. The person cleaning the grease interceptor or trap shall:

A. Completely empty and remove the contents (liquids and sludge) of all vaults of the grease interceptor or trap and remove the grease mat and scrapings from the interior walls. As part of each cleaning of a grease interceptor or trap, the licensed waste hauler employed by the FSE owner or operator shall perform the following maintenance activities:

(1) Check that the sanitary “tees” on the inlet and outlet sides of the grease interceptor are not obstructed, loose, or missing.

(2) Verify that the baffle is secure and in place.

(3) Inspect the grease interceptor or trap for any cracks or other defects.

(4) Check that lids are securely and properly seated after completion of cleaning.

B. Not deposit waste and wastewater removed from a grease interceptor or trap back into the grease interceptor or trap from which the waste or wastewater was removed, or into any other grease interceptor or trap or drainage fixture connected to the sanitary sewer, for the purpose of reducing the volume of waste and wastewater to be disposed of.

C. Not introduce enzymes, emulsifying chemicals, hot water, or other agents into a grease interceptor or trap to dissolve or emulsify grease or as a grease abatement method. Introduction of bacteria as a grease degradation agent is permitted with prior written approval by the WRA Director.

D. Dispose of waste and wastewater removed from a grease interceptor or trap at the WRF or at a facility approved for disposal of such waste by the WRA Director. Waste and wastewater removed from a grease interceptor or trap shall not be discharged to any private sanitary or storm sewer or to the City sanitary

or storm sewer system. The waste hauler shall provide a copy of the disposal receipt for all waste and wastewater removed from a grease interceptor or trap to the owner or operator of the FSE.

E. Not use an automatic grease removal system to clean a grease interceptor without prior written approval of the WRA Director, and if, the use of an automatic grease removal system is approved, shall operate same in a manner that the grease wastewater discharge limit, as measured from the system's outlet, is consistently achieved.

4. The WRA Director may make exceptions to the above requirements or may approve alternative operational requirements or cleaning and maintenance methods, provided that such exceptions or approvals shall be made in writing by the WRA Director.

5. The WRA Director may issue a Grease Hauler Certification upon satisfactory completion of the course of training offered by the WRA on the proper maintenance and cleaning of grease interceptors and traps, disposal procedures, and record keeping. Such certification shall be for a period of five years and shall be in effect for the person receiving such training. Grease haulers certified by the WRA shall be subject to a grease interceptor cleanout inspection by WRA personnel, not less than once every two years, for purposes of the hauler demonstrating its compliance with requirements in this section. Such inspections shall be scheduled at a time which coincides with normal working hours for WRA personnel, shall involve all individuals employed by the same company who have been issued a Grease Hauler Certification by the WRA, and shall be conducted at an FSE within the WRA service area. Failure to follow WRA's cleanout procedures or other requirements of this section may result in fines, additional scheduled cleanout inspections, and loss of Grease Hauler Certification status, individually or company-wide, with the WRA.

100.63 RECORDS AND RECORD KEEPING.

1. Required Records. The owner or operator of an FSE which is required to pass wastewater through a grease interceptor or trap shall maintain a written record of grease interceptor or trap maintenance, including a log showing the dates upon which the grease interceptor or trap was inspected and the estimated amount of FOG present in the grease interceptor or trap at each inspection, the date upon which waste and wastewater was removed from the grease interceptor or trap and disposed of, and the location and means of such disposal of waste and wastewater, and the name and employer or the person or persons performing each of said tasks. The log shall further include a record of the placement of any approved or unapproved additive into the grease interceptor, grease trap, or building sewer on a constant, regular, or scheduled basis, including the type and amount of additive placed on each such occasion. Only additives approved by the WRA Director pursuant to Section 100.62(3)(C) may be used in a grease interceptor.

2. Record Keeping. The log shall at all times be kept and maintained on a day-to-day basis, so as to show a record of waste and wastewater removal, waste and wastewater disposal, and approved additive placement for a continuous period of three years. All such records shall be kept secure at the premises of the FSE for a continuous period of three years and shall be made available for non-routine inspection by the City, the Sanitary District, the WRA and its operating contractor, or the employees and agents of any of them at any time during normal business hours.

100.64 INSPECTION OF GREASE INTERCEPTORS AND RELATED SEWERS AND EQUIPMENT. The owner or operator of an FSE shall:

1. Provide, operate, and maintain, at its expense, safe and accessible monitoring facilities (such as a suitable manhole), and shall make such monitoring facilities available for inspection, for routine cleanouts by the owner or operator's licensed grease hauler, and for sampling and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facility to allow for proper inspection, accurate sampling, and preparation of samples for analysis. The monitoring facilities shall be maintained such that the devices are readily and immediately accessible for inspections and cleanouts being free of coverings, building materials, pavements, or any other obstructions.

2. Allow personnel authorized by the WRA Director or by the City Building Official or designee, bearing proper credentials and identification, to enter upon or into any building, facility, or property housing an FSE at any reasonable time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing, or record review, in accordance with this division.

3. Upon request by the WRA Director's authorized representative, open any grease interceptor or grease trap for the purpose of confirming that maintenance frequency is appropriate, that all necessary parts of the installation are in place including, but not limited to, baffles, and effluent tees, and that all grease interceptors, traps, and related equipment and piping is maintained in efficient operating condition.

4. Accommodate compliance inspections and sampling events by the authorized representatives of the WRA Director or of the City Building Official. Staff may conduct routine inspections and sampling events of any food service establishment. Non-routine inspection and sampling events shall occur more frequently when there is a history of non-compliance with this division and when blockages occur in the City's sanitary sewer system downstream of the FSE.

100.65 TRIP CHARGES. The fees for inspection of an FSE shall be as provided in Section 100.21 and shall be paid within 30 days of the date of the invoice for such fees. A trip charge of $50.00, as referenced in Section 100.21(1)(E), shall be assessed in conjunction with the violation of any requirement of Section 100.64 which results in the need for WRA personnel to reschedule such inspection of grease interceptor or trap or food service establishment, and shall be paid within 30 days of the date of the invoice for such charge.

100.66 ENFORCEMENT. The WRA Director is authorized to enforce this division as hereinafter provided. The City Building Official or designee, or such other governmental official hereafter designated by the WRA, is also authorized to enforce this division.

100.67 NOTICE OF VIOLATION - ADMINISTRATIVE PENALTIES - CORRECTIVE ACTION ORDER.

1. The Director, or such other designated officers or officials with enforcement authority as provided in Section 100.66, are authorized to issue a notice of violation imposing an administrative penalty upon any person who fails to perform an act required by this division or who commits an act prohibited by this division. Such notice may include a corrective action order requiring the user to take one or more of the following corrective actions within 30 days:

A. Conform to best management practices;

B. Submit copies of the grease interceptor or trap maintenance log;

C. Develop, submit, and implement a FOG compliance plan to be approved by the Director or designated enforcement official; or

D. Install a compliant grease interceptor.

2. The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the Council by resolution.

3. Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice may be by regular mail or by delivery in person.

4. Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within 30 days of its issuance.

5. The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in Section 100.68, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the WRA Director determines that immediate enforcement action by misdemeanor or municipal infraction prosecution is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this chapter. A record of all violations, administrative penalties charged, or other enforcement actions taken shall be maintained by the WRA for a period of three years.

100.68 PENALTIES.

1. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine or imprisonment or shall be guilty of a municipal infraction punishable by a civil penalty.

2. Any person who fails to comply with a pretreatment standard applicable to an FSE shall be guilty of a municipal infraction punishable by a civil penalty of not more than $1,000.00 for each day the violation exists or continues, as provided by Section 364.22 or 331.307 of the *Code of Iowa*.

3. When enforcement is sought through a municipal infraction proceeding, the Director, or such other designated officers or officials with enforcement authority as provided in Section 100.66, may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period specified by the order.

100.69 ORDER TO CEASE OPERATION OF FSE.

1. Where a violation of this division has not been timely corrected, and results in or threatens interference or pass through as herein defined, the WRA Director, or such other designated officers or officials with enforcement authority as provided in Section 100.66, shall have the authority to issue an order in writing to the owner or operator of the FSE, ordering such person or persons to cease and desist from further operation of the FSE and from further discharge of wastewater to the sanitary sewer system. The order shall be delivered by personal service unless the owner or operator cannot be found within the City or Sanitary District, in which event notice shall be by ordinary

mail addressed to the owner's or operator's last known address and by posting a copy of the notice in a conspicuous place upon the premises of the FSE.

2. Operation of the FSE shall cease on the date stated in the order and shall not recommence without the prior written approval of the WRA Director.

3. The applicant may make a written request to the director for a reconsideration and hearing on the cease-and-desist order within 10 days from the issuance of the order, provided, however, that operation of the FSE shall cease pending the outcome of the hearing.

4. The owner's or operator's request for hearing shall identify the appealing party, include the address of the person requesting the hearing and to which all further notices shall be mailed or served, and shall state the basis for the appeal.

5. The hearing shall be scheduled to be held as soon as practicable and no later than 14 days after the request for hearing was filed with the WRA Director. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three days in advance thereof. At such hearing the Director and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence as necessary.

6. The determination by the Director that the violation occurred shall be considered a final administrative decision, unless appealed to the WRA.

100.70 APPEAL OF CORRECTIVE ACTION ORDER OR CEASE AND DESIST ORDER.

1. Any person aggrieved by a corrective action order or a cease-and-desist order issued by the WRA Director, or by such other designated officers or officials with enforcement authority as provided in Section 100.66, may file an appeal and request a ruling that such order be modified or rescinded.

2. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to the WRA within 10 days after the WRA Director's issuance of the order. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee
Des Moines Metropolitan Wastewater Reclamation Authority
3000 Vandalia Road
Des Moines, IA 50317

3. The Chair of the Appeal Committee shall schedule the appeal and shall cause notice of the time, date, and place of the hearing to be mailed to the appealing party. Such appeal shall be decided by majority vote of the Appeal Committee. The Appeal Committee may affirm, modify, or rescind the order of the Director and shall so state and order in its written decision.

100.71 ADDITIONAL REMEDIES. The WRA or the City or the Sanitary District is not precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief or for recovery of investigational or remedial costs resulting from a non-complying discharge, in the event that the WRA or the City files a misdemeanor citation, notice of administrative penalty, or files a municipal infraction for the same violation of this division.

100.72 RESERVED.

[The next page is 863]

DIVISION 6. REGULATION OF HAULED WASTE

100.73 DEFINITIONS. The definitions found in Sections 100.01 and 100.56 shall apply to the provisions of this division, provided, however, that the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Vehicle" means a commercial device equipped with a tank and used to remove or transport waste.

2. "Waste" means human excreta, water, scum, sludge, septage, FOG, food waste or grease solids, and non-hazardous industrial wastewaters and solids removed from public and private wastewater disposal systems, holding tanks, impervious vaults, portable or chemical toilets, or from devices used to trap grease resulting from food preparation. Waste also means liquid wastes resulting from spill clean-up.

100.74 LICENSE. No waste hauler shall remove waste from within the City or Sanitary District or shall dispose of waste, whether from a source inside or outside the City or Sanitary District, into the POTW without first obtaining a waste hauler license from the WRA, with the following exceptions:

1. WRA participating communities that operate vehicles to remove waste from their sewer systems.

2. Waste haulers hired by WRA participating communities to remove waste from their sewer systems and which bring no other wastes to the WRF.

3. Waste haulers utilized by industrial users issued a Wastewater Discharge Permit by the WRA.

4. Waste haulers granted temporary authorization by the WRA Director in order to deal with an emergency.

100.75 ISSUANCE OF LICENSE; PAYMENT BOND REQUIREMENTS. The waste hauler's license shall be issued by the WRA Director upon written application that shall consist of the following minimum requirements:

1. Inspection. The WRA Director, upon application, shall inspect the trucks, hoses, valves, and associated equipment of the applicant for a Waste Hauler's License and determine if they meet the minimum qualifications for complying with the conditions of this division.

2. License Fee and Bond. An application shall require the payment of a fee of $60.00 for each vehicle used by the applicant and the posting of a bond with reasonable surety in the penal sum which shall cover no less than two months of average or estimated treatment fees at the WRF for the faithful compliance with this division, including prompt payment of treatment costs, surcharges, fees, and fines. Bond amounts shall be up to $100,000.00, but not less than $20,000.00, and structured as follows or as required by the WRA Director:

Total Monthly Treatment Fees	Surety Bond Amount
< $10,000.00	$20,000.00
$10,001.00 - $20,000.00	$40,000.00
$20,001.00 - $40,000.00	$60,000.00
> $40,001.00	$100,000.00

WRA participating communities that contract with waste haulers in order to clean and rehabilitate storm and sanitary sewers owned by the community or that own and operate waste hauling vehicles may provide proof of self-insurance or provide a letter guaranteeing payment of up to $20,000.00 in lieu of providing a surety bond.

3. Renewal. A waste hauler license shall expire on June 30 next after its issuance. The renewal application must be made in the same manner as the initial application and must be received by the Director 30 days prior to expiration. Failure to apply 30 days prior to expiration may result in an interruption in the license and the privileges of such license.

4. Transferability. Waste hauler licenses are not transferable.

100.76 STANDARDS FOR VEHICLES AND EQUIPMENT. As to all vehicles and equipment used by a waste hauler, the licensee shall:

1. Prevent waste and wastewater from leaking, spilling, or discharging onto roads or rights-of-way.

2. Ensure proper construction and repair of the equipment to allow cleaning.

3. Maintain vehicles and equipment in an essentially rust-free and sanitary condition and appearance.

4. Display the business name as it appears on the waste hauler license in three-inch or larger letters on the left and right sides of the vehicle.

100.77 DISPOSAL. Hauled waste shall only be disposed at the WRF at the designated disposal station or as authorized by the Iowa Department of Natural Resources for land application. Waste haulers shall maintain the WRF designated disposal location in a clean and orderly condition to avoid noxious odors and unsanitary conditions. Hours of operation at the WRF disposal station shall be set by the WRA Director. In the event of emergency situations, special arrangements between the waste hauler and the WRA Director regarding disposal at an alternative disposal site shall be allowed to permit response to such emergency. Any violation of an Iowa Department of Natural Resources rule or regulation for land disposal of hauled wastes by a waste hauler shall be grounds for rejection of a hauled waste load in Section 100.81 by such waste hauler or shall be grounds for denial, suspension, and revocation of such waste hauler's license in Section 100.86.

100.78 IDENTIFICATION OF SOURCE AND WASTELOAD APPROVAL.

1. Waste haulers must document the nature and origin of wastes collected and the site and method of disposal for wastes that are removed from any locations or are delivered to the WRF. Such information shall be provided on a manifest form provided by the WRA and shall also include:

A. The name and address of the waste generators,

B. The type of waste collected,

C. Any other information consistent with identification and tracking of wastes.

The WRA Director, or their designee, shall have the right to verify all information required by this section, including the right to measure, sample, and analyze any waste regulated by this division.

2. The waste hauler or waste generator shall obtain approval from the WRA Director, or their designee, prior to loading wastes originating from an industrial or commercial source unless prior approval is on record with the WRA. A hauled waste profile form prescribed by the WRA must be completed by the waste generator and submitted to the WRA Director, or their designee, for consideration for waste load disposal at the WRF. Such profile form shall include information regarding the waste generator's name, address, phone number, authorized representative, waste description and product information, anticipated volume, and frequency of disposals, waste transporter information, process waste characteristics including pollutant concentrations, declarations, certifications, and signature of authorized official.

100.79 MIXING WASTES.

1. For the purposes of this division, wastes from residential and nonresidential sources shall not be mixed. Wastes from an industrial or commercial source shall not be mixed with wastes of any type from another location. Portable toilet and FSE grease trap wastes may be mixed with similar wastes from different locations. Residential wastes from several sources may be mixed as long as each source is identified.

2. Any tanks used for hauling waste to the WRF or equipment that comes in contact with waste shall not be used for hauling hazardous wastes or hazardous substances, as defined in I.C. § 567.1 et seq., Chapter 131 of the *Iowa Administrative Code* and in 40 CFR 261, or other wastes which may be detrimental to the POTW, the receiving waters, or the health of WRF employees, private contractors, or the public.

100.80 STANDARDS OF DISPOSAL AT WRF.

1. Under this division, disposal of wastes at the WRF shall be carried out in accordance with pretreatment standards and requirements established by federal, State, County, and City governments including categorical standards developed for the waste generator's industrial category. The WRA Director may reject wastes from waste haulers who do not comply with this section or with any other section of this chapter. Waste haulers shall not deliver wastes to the WRF, or to any other disposal location approved by the WRA Director which are:

A. Prohibited by Section 100.11 or exceed the limits found in Section 100.12(3)(D), Sections 100.13, and Section 100.14.

B. Hazardous wastes or hazardous substances as defined in 40 CFR Part 261 or 567 I.A.C., Chapter 131.

C. Originate from mineral oil unless first treated to remove the oil and grease.

D. Not completely identified or are from industrial or commercial sources that are not approved by the WRA Director as required in Section 100.78.

E. Mixed in a manner prohibited in Section 100.79.

F. Wastes other than residential from outside the WRA, except through requests to the WRA Director.

2. All disposal transactions at the WRF shall consist of waste haulers scaling in and scaling out on the WRF scales system. Prior to discharging any contents from their vehicle, a waste hauler shall:

A. Collect onsite at the WRF a sufficient sample of the waste material onboard.

B. Test and record the pH and immediately report any results that do not meet disposal limits as listed in 100.11(2).

C. Document on the WRF manifest all contents of the waste load including waste type, source information, and any other information consistent with identification and tracking of wastes as required in Section 100.78.

D. Request and obtain approval from WRF operations to begin unloading at the WRF digesters.

100.81 REJECTION OF WASTE LOADS.

1. The WRA Director may reject any hauled waste load that violates or is suspected of violating the requirements of this division or that fails to meet any other guidelines established by the WRA Director to protect personnel, equipment, and the WRF. Waste haulers must:

A. Remove rejected waste from the WRF.

B. Immediately remove any additional wastes contaminated by the rejected waste while contained at the WRF prior to introduction into the sewer.

C. Properly dispose of all rejected wastes in accordance with State and federal law.

D. Provide the WRA Director with a written statement, signed by the waste hauler license holder, stating the location, date, and time the rejected load was disposed of. The statement is due within five calendar days after the waste is rejected.

2. A vehicle used to haul rejected wastes shall not thereafter be allowed to dispose of additional wastes at the WRF until the statement required by this section is delivered to the WRA Director.

100.82 TREATMENT FEES FOR HAULED WASTES.

1. A treatment fee shall be charged per pound of hauled waste disposed of at the WRF and assessed based on the waste type, pollutant loading, approved disposal location, and location of the source material. The fee for treatment shall include electrical, chemical, labor, equipment, fuel, maintenance, and any capital costs associated with the treatment processes utilized. The treatment fee shall reflect a total cost per gallon or per pound of hauled waste equaling the sum of the total cost of pollutants per gallon or per pound plus, if applicable, total cost of flow per gallon, based on:

A. The parameters of chemical oxygen demand (COD), estimated biochemical oxygen demand (BOD), total suspended solids (TSS) or total solids (TS), volatile solids (VS), total Kjeldahl nitrogen (TKN), oil and grease (O and G), and, if applicable, total phosphorus (TP) contained in trucked waste to the WRF;

B. Net weight of the wasteload in pounds; and

C. The treatment surcharge component rate per pound of pollutant as found in Sections 118-352 of this division.

Wasteloads disposed of at an unapproved location at the WRF, or containing pollutant concentrations different from typical pollutant concentrations or from original disclosures made during the wasteload approval process, may be subject to the following additional costs: treatment fees, charges, or fines may also be applied pursuant to Section 100.21(1)(L).

2. Treatment costs shall be reviewed and updated annually per the U.S. Bureau of Labor Statistics Consumer Price Index. The WRA shall provide 30 days' notice prior to assessing updated disposal rates with such notices posted, at a minimum, on the WRA website. The treatment fee for loads originating outside of the WRA participating communities shall be one and one-half times the fee for loads originating within the WRA participating communities unless otherwise approved by the WRA Director.

3. Wasteload disposal weights shall be computed and recorded at the WRF truck scales and the resulting treatment fees shall be paid by the waste hauler or waste generator, at the WRA's discretion, on the basis of monthly billings by the operating contractor. Limits of credit shall not exceed 60 days. Abuse of such credit shall be grounds for liability on the waste hauler or waste generator's bond and for refusal of disposal services to any waste hauler or waste generator under this division.

4. Waste haulers and waste generators may elect to have their routine waste streams tested for actual concentration at their expense as set forth in Section 100.21 and as approved by the WRA Director. When a waste hauler or waste generator has elected to test for actual concentration, the treatment fee will be based on the actual concentration whether it be higher or lower than the average concentration treatment fee. Said testing will be done at least semi-annually or as required by the WRA Director.

100.83 ENFORCEMENT. The WRA Director, the City Building Official, or such other governmental official hereafter designated by the WRA, shall be authorized to enforce this division as hereinafter provided.

100.84 NOTICE OF VIOLATION - ADMINISTRATIVE PENALTIES - CORRECTIVE ACTION ORDER.

1. The Director, or such other designated officers or officials with enforcement authority as provided in Section 100.83, are authorized to issue a notice of violation imposing an administrative penalty upon any person who fails to perform an act required by this division or who commits an act prohibited by this division.

2. The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the Council by resolution.

3. Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice may be by regular mail or by delivery in person.

4. Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within 30 days of its issuance.

5. The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in Section 100.85, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the WRA Director determines that immediate enforcement action by misdemeanor or municipal infraction prosecution is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this chapter. The WRA shall maintain a record of all violations, administrative penalties charged, or other enforcement actions taken.

100.85 PENALTIES.

1. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine or shall be guilty of a municipal infraction punishable by a civil penalty.

2. Any person who violates a discharge prohibition set forth in Section 100.11, or discharges in excess of local limits as set forth in Section 100.12, shall be guilty of an environmental violation punishable as provided by Section 364.22 of the *Code of Iowa*.

100.86 DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.

1. Grounds for denial, Suspension, or Revocation of Waste Haulers License. The WRA Director may deny, suspend, or revoke the Waste Hauler License or Grease Hauler Certification of any wastehauler who violates any provision of this division or any condition of its license, or who commits any of the following violations, or who does not meet the following requirements:

A. Violation of any term, condition, or requirement of this division, the license, or applicable State or federal laws or regulations.

B. Obtaining a license by misrepresentation.

C. Falsification of, failure to complete or failure to fully disclose all relevant facts in a license application.

D. Failure to pay fees, administrative penalties, or fines.

E. Failure to report a spill to the WRA.

F. Using wash down water or otherwise diluting the permitted waste for the purpose of meeting discharge limitations or requirements.

G. Falsification of, failure to complete or failure to fully disclose all relevant facts in any report, manifest information, or record required by the license or this division.

H. Tampering with samples or sampling equipment intended to accurately reflect the contents of each hauled waste load.

I. Refusing to allow WRA personnel timely access to the wastehauler's facility premises, vehicles, or records.

J. Failure to perform as required under a corrective action order or compliance schedule issued by the WRA Director.

K. Failure to correct any violation of this division within 30 days after notice by the WRA Director.

L. Failure to immediately correct any violation of this division if the condition constituting the violation is declared a threat to public health, safety, or welfare by the WRA Director and the Director orders immediate correction.

2. Procedure for Denial, Suspension, or Revocation of Wastehauler's License. The procedure for denial, suspension, or revocation of a wastehauler's license shall be as follows:

A. Any license issued to a wastehauler pursuant to this division may be denied, suspended, or revoked by written order of the WRA Director specifying the grounds for such action as outlined in Paragraph A of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to deny, suspend, or revoke a wastehauler's license, the WRA Director shall cause a notice of hearing to be prepared, specifying the violations of Paragraph A of this section which are deemed to have occurred, and the time, date, and place that such hearing will be held. The notice shall be sent to the wastehauler by regular mail addressed to the wastehauler's address listed on the wastehauler's license a minimum of 10 days prior to the date set for hearing and shall be deemed delivered when placed in the mail.

B. If, after such a hearing, the WRA Director makes a finding based on substantial evidence that one or more violations under Paragraph A of this section have occurred as alleged, the Director may deny issuance of the license, suspend the license for a fixed period, or may issue an order immediately revoking the license and ordering the wastehauler to discontinue hauling waste to the WRF or any other disposal locations approved by the Director. The determination whether to deny issuance of a license, to suspend a license, or to revoke a license, shall be in the discretion of the Director and shall be dependent upon the circumstances surrounding the violations of Paragraph A of this section and the severity of those violations. If the wastehauler does not appear for the hearing, the Director shall issue the order revoking the wastehauler's license and ordering the cessation of delivery of hauled waste at the WRF or any other disposal locations approved by the Director, which order shall take effect immediately.

C. The decision and order of the WRA Director to deny issuance, to suspend or to revoke the license of a wastehauler may be appealed to the WRA Appeal Committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the Director's entry of the order of denial, suspension, or revocation. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee
Des Moines Metropolitan Wastewater Reclamation Authority
3000 Vandalia Road
Des Moines, Iowa 50317

The Chair of the Appeal Committee shall schedule the appeal and shall cause notice of the time, date, and place of the hearing to be mailed to the appealing wastehauler. Such appeal shall be decided by majority vote of the Appeal Committee. If the Appeal Committee affirms the order of the WRA Director denying issuance, suspending, or revoking the license and ordering the

cessation of waste deliveries at the WRF or other approved locations, the Appeal Committee shall so state and order in its written decision.

D. A wastehauler whose license has been denied or revoked shall not be eligible for issuance or reinstatement of its license until 30 days after the violating conditions have been corrected to the satisfaction of the Director.

100.87 ALTERNATIVE RELIEF. Neither the WRA nor the City or Sanitary District is precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief, in the event that the WRA or the City files a misdemeanor citation, notice of administrative penalty, or files a municipal infraction for the same violation of this division, or in the event the WRA seeks to deny, suspend, or revoke the wastehauler's license

100.88 RESERVED.

[The next page is 875]

CHAPTER 101

STORMWATER DRAINAGE UTILITY

101.01 Purpose
101.02 Stormwater Drainage Utility Established
101.03 Equivalent Residential Unit (ERU) Defined
101.04 Rates
101.05 Use of Fund
101.06 Governing Board
101.07 Stormwater Site Plan Review Required
101.08 Lien for Nonpayment

101.01 PURPOSE. The purpose of this chapter is to establish a Stormwater Drainage Utility and provide a means of funding the construction, operation, and maintenance of stormwater management facilities, including, but not limited to, detention and retention basins, stormwater sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation, and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system or properties receiving the indirect benefit of drainage diverted into the City's system.

101.02 STORMWATER DRAINAGE UTILITY ESTABLISHED. It is found and determined to be necessary and conducive to the protection of the public health, safety, welfare, and convenience that a stormwater drainage utility is created for all of the City, and for the purpose authorized by Section 384.84(1) of the *Code of Iowa*; that is, to establish and collect rates for a stormwater drainage system.

101.03 EQUIVALENT RESIDENTIAL UNIT (ERU) DEFINED. For purposes of this this chapter, "ERU" shall be used as the basis for determining stormwater management fees. Less than or equal to 3,000 square feet of impervious surface area shall be one ERU. Every additional increment of one square foot to 1,500 square feet of impervious surface area shall be one half ERU. Properties shall be charged in increments of one half ERU with a minimum charge of one ERU per property billed monthly. Residential and non-residential properties shall pay the same rate per ERU.

101.04 RATES. The billing rates per ERU as defined in Section 101.03 are as follows:

1. Effective July 1. 2024: $9.00 per ERU.
2. Effective July 1, 2026: $9.50 per ERU.
3. Effective July 1, 2028: $10.00 per ERU.
4. Effective July 1, 2030: $10.50 per ERU.

101.05 USE OF FUND. The money paid and collected pursuant to this chapter shall be held by the City in a special fund to be expended only for the purpose of constructing, operating, managing, repairing, and maintaining all kinds of conduits, drains, stormwater detention devices, flow impediments, ponds, ditches, sloughs, filter strips, rip-raps, erosion control devices, and any other things and activities useful to the proper control management, collection, drainage, and disposition of stormwater in the City.

101.06 GOVERNING BOARD. The governing board of the Stormwater Drainage Utility is the Council. The Stormwater Drainage Utility shall be under the direction, management, and control of the City Administrator, who functions as its Director. In that capacity, the City Administrator shall supervise the day-to-day operation of the Stormwater Drainage Utility, shall enforce this chapter and the provisions of all ordinances and regulations adopted pursuant to this chapter and shall carry out the policy directives of the Council acting in its role as governing body of the Stormwater Drainage Utility.

101.07 STORMWATER SITE PLAN REVIEW REQUIRED. A stormwater site plan review shall be required for projects in order to ensure that the goals of the City's stormwater program are met. Stormwater site plan requirements and associated fees are adopted by resolution and available for review from the Clerk or the City Building Inspector.

101.08 LIEN FOR NONPAYMENT. The owner of the property served, and any lessee or tenant thereof, shall be jointly and severally liable for stormwater fees. Stormwater fees remaining unpaid and delinquent shall constitute a lien upon the property and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.8)

[The next page is 881]

CHAPTER 102

ILLICIT DISCHARGE TO STORM SEWER SYSTEM

102.01 Findings
102.02 Illicit Discharges Prohibited
102.03 Illicit Connections Prohibited
102.04 Industrial Discharges
102.05 Illicit Discharge Detection and Reporting; Cost of Recovery
102.06 Suspension of Access to the City's Storm Sewer System
102.07 Watercourse Protection
102.08 Enforcement
102.09 Appeal

102.01 FINDINGS.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of stormwater from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the Clerk and is available for public inspection during regular office hours.

2. As a condition of the City's MS4 Permit, the City is obliged to adopt and enforce an illicit discharge to storm sewer system ordinance.

3. No State or federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its operations under this chapter entirely by charges imposed on the owners of properties which are made subject to the Program by virtue of State and federal law, or other sources of funding established by a separate ordinance.

4. Terms used in this chapter shall have the meanings specified in the Program.

102.02 ILLICIT DISCHARGES PROHIBITED.

1. For purposes of this chapter, a "responsible party" is one or more persons that control or are in possession of or own property. Responsible parties shall be jointly and severally responsible for compliance with this chapter and jointly and severally liable for any illicit discharge from the property controlled, possessed, or owned. For purposes of this chapter, "property" includes, but is not limited to, real estate, fixtures, facilities, and premises of any kind located upon, under, or above the real estate.

2. Nothing in this chapter shall be deemed to relieve a responsible party subject to an IDNR-issued Industrial Discharge Permit or any other federal, State, or City permit, statute, ordinance, or rule from any obligation imposed by such permit, statute, ordinance, or rule if any such obligation is greater than any obligation imposed by this chapter.

3. Any discharge into the City's storm sewer system prohibited by the City's MS4 Permit, the terms of which are hereby incorporated by reference, shall be deemed an "illicit discharge" in violation of this chapter.

4. Sediment pollution originating from excessive erosion rates on a construction site not otherwise subject to the City's COSESCO ordinance or sediment pollution

entering a municipal storm sewer that causes a water quality violation as determined by the DNR shall be deemed an illicit discharge in violation of this chapter.

102.03 ILLICIT CONNECTIONS PROHIBITED.

1. For purposes of this chapter, an "illicit connection" to the City's storm sewer system is any physical connection or other topographical or other condition, natural or artificial, which is not specifically authorized by ordinance or written rule of the City, which causes or facilitates, directly or indirectly, an illicit discharge.

2. The construction, use, maintenance, or continued existence of any illicit connection shall constitute a violation of this chapter.

3. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

102.04 INDUSTRIAL DISCHARGES.

1. Any responsible party subject an industrial NPDES Discharge Permit issued by the IDNR shall comply with all provisions of such permit.

2. Proof of compliance with said permit may be required in a form acceptable to the Enforcement Officer prior to discharges to the storm sewer system authorized by said permit.

102.05 ILLICIT DISCHARGE DETECTION AND REPORTING; COST OF RECOVERY.

1. All detection activities permitted under this chapter shall be conducted by the City Public Works Director, City Engineer, Building Inspector, a subcontractor credentialed in a manner satisfactory to the City, or other appropriate designee, hereinbefore and after referred to as the "Enforcement Officer."

2. The City shall not be responsible for the direct or indirect consequences to persons or property of an illicit discharge, or circumstances which may cause an illicit discharge, undetected by the City.

3. Every responsible party has an absolute duty to monitor conditions on property owned or controlled by them, to prevent all illicit discharges, and to report to the Enforcement Officer illicit discharges which the responsible party knows or should have known to have occurred. Failure to comply with any provision of this chapter is a violation of this chapter.

A. Notwithstanding other requirements of law, as soon as any responsible party has information of any known or suspected illicit discharge, the responsible party shall immediately take all necessary steps to ensure the discovery, containment, and cleanup of such discharge at the responsible party's sole cost.

B. If the illicit discharge consists of hazardous materials, the responsible party shall also immediately notify emergency response agencies of the occurrence via emergency dispatch services.

C. If the illicit discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an

on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

D. A report of an illicit discharge shall be made in person or by phone or facsimile or email to the Enforcement Officer immediately, but in any event within 24 hours after the illicit discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed or emailed to the Enforcement Officer within 24 hours after the personal or phone notice.

4. Any person or entity shall also report to the City any illicit discharge or circumstances which such person or entity reasonably believes pose a risk of an illicit discharge.

5. Upon receiving a report pursuant to the previous subsections, or otherwise coming into possession of information indicating an actual or imminent illicit discharge, the Enforcement Officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide to the responsible party, and any third party reporter, a written report of the conditions which may cause or which have already caused an illicit discharge. The responsible party shall immediately commence corrective action or remediation and shall complete such corrective action or remediation within 24 hours.

6. The Enforcement Officer shall be permitted to enter and inspect property subject to regulation under this section as often as is necessary to determine compliance with this section. If a responsible party has security measures that require identification and clearance before entry to its property or premises, the responsible party shall make the necessary arrangements to allow access by the Enforcement Officer. By way of specification, but not limitation:

A. A responsible party shall allow the Enforcement Officer ready access to all parts of the property for purposes of inspection, sampling, examination, and copying of records related to a suspected, actual, or imminent illicit discharge, and for the performance of any additional duties as defined by State and federal law.

B. The Enforcement Officer shall have the right to set up on any property such devices as are necessary, in the opinion of the Enforcement Officer, to conduct monitoring or sampling related to a suspected, actual or imminent illicit discharge.

C. The Enforcement Officer shall have the right to require any responsible party at responsible party's sole expense to install monitoring equipment and deliver monitoring data or reports to the Enforcement Officer as the Enforcement Officer directs. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the responsible party at responsible party's sole expense. All devices shall be calibrated to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to property to be inspected or sampled shall be promptly removed by the responsible party at the written or oral order of the Enforcement Officer and shall not be replaced. The costs of clearing such access shall be borne by the responsible party.

E. An unreasonable delay in allowing the Enforcement Officer access to a property is a violation of this chapter.

F. If the Enforcement Officer has been refused access to any part of the property from an illicit connection or illicit discharge to a municipal storm sewer is occurring, suspected, or imminent, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction.

7. If it is determined that an illicit discharge is imminent or has occurred, the actual administrative costs incurred by the City in the enforcement of this chapter shall be recovered from the responsible party. The Enforcement Officer shall submit an invoice to the responsible party reflecting the actual costs and wages and expenses incurred by the City for the enforcement activities undertaken. Failure to pay charges invoiced under this chapter within 30 days of billing shall constitute a violation of this chapter.

102.06 SUSPENSION OF ACCESS TO THE CITY'S STORM SEWER SYSTEM.

1. Emergency Suspension. The Enforcement Officer may, without prior notice, suspend storm sewer system access to a property when such emergency suspension is necessary to stop an ongoing or imminent illicit discharge. If the responsible party fails to immediately comply with an emergency suspension order, the Enforcement Officer shall take such steps as deemed necessary to prevent or minimize the illicit discharge. All costs of such action shall be recovered from the responsible party for the property identified as the source of the illicit discharge.

2. Non-Emergency Suspension. If the Enforcement Officer detects or is informed of circumstances which could cause an illicit discharge, but such illicit discharge is not ongoing or imminent, and if the suspension of storm sewer system access would reasonably be expected to prevent or reduce the potential illicit discharge, the Enforcement Officer shall notify the responsible party of the proposed suspension of storm sewer system access and the time and date of such suspension. Notice to one responsible party for the property shall be sufficient notice to all. Remediation of the circumstances shall avoid a violation of this chapter, provided that no illicit discharge occurs. In the alternative, the responsible party may request a meeting with the Enforcement Officer for the purpose of presenting information which the responsible party believes will show that remediation is unnecessary; and, if the Enforcement Officer finds such information is satisfactory, the Enforcement Officer may rescind or modify the notice of suspension. If the Enforcement Officer finds such information unsatisfactory, the Enforcement Officer shall issue a final written order of suspension including the date and time of suspension, and such order may be appealed as provided herein. Any physical action to reinstate storm sewer system access to property subject to such order prior to obtaining a court order of relief shall be deemed a violation of this chapter. An order of suspension shall not preclude charging the responsible party with a municipal infraction as provided herein or taking any other enforcement action permitted by statute or ordinance.

102.07 WATERCOURSE PROTECTION. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property below the elevation of the 100-year flood free of trash, debris, grass clippings, or other organic wastes and other obstacles that would pollute, contaminate, or significantly alter the quality of water flowing through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

102.08 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa*, pursuant to Chapter 3.

3. Enforcement pursuant to this section shall be undertaken by the Enforcement Officer upon the advice and consent of the City Attorney.

102.09 APPEAL. Administrative decisions by City staff and enforcement actions of the Enforcement Officer may be appealed by the applicant to the Council pursuant to the following rules:

1. The appeal must be filed in writing with the Clerk within five business days of the decision or enforcement action.

2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the Enforcement Officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.

3. The Enforcement Officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the Enforcement Officer intends to introduce at the hearing, including the names and addresses of all witnesses the Enforcement Officer intends to call, and copies of all documents the Enforcement Officer intends to introduce at the hearing.

4. The Clerk shall notify the applicant and the Enforcement Officer by ordinary mail, and shall give public notice, in accordance with Chapter 21 of the *Code of Iowa*, of the date, time, and place for the regular or special meeting of the Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four or more than 20 days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A of the *Code of Iowa*. The applicant may be represented by counsel at the applicant's expense. The Enforcement Officer may be represented by the City Attorney or by an attorney designated by the Council at City expense.

The decision of the Council shall be rendered in writing and may be appealed to the Iowa District Court.

[The next page is 911]

CHAPTER 105

SOLID WASTE CONTROL AND RECYCLING

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Toxic and Hazardous Waste
105.07 Treatment Pending Collection
105.08 Waste Storage Containers
105.09 Prohibited Practices
105.10 Recyclable Collection Program
105.11 Yard Wastes

105.01 PURPOSE. The purpose of the chapters in this Code pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste, yard waste, and recyclables 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 purposes of this chapter, the following terms are defined.

1. "Agency" means the Metropolitan Waste Authority.

2. "Bags" means any untreated paper bags acceptable to the composting station used by the licensed yard waste collection hauler.

3. "Bundle" means a stack of brush or tree branches that are tied or bound together and do not exceed 40 pounds, four feet in length, and 18 inches in diameter.

4. "Collector" means any person authorized to gather solid waste from public and private places.

5. "Composting" means a controlled microbial degradation of organic waste to produce a relatively nuisance-free product of potential value as soil conditioner.

6. "Container" means a reusable receptacle constructed of plastic or metal materials.

7. "Discard" means to place, cause to be placed, throw, deposit, or drop.

(Code of Iowa, Sec. 455B.361(2))

8. "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.

9. "Eligible residence" means a residence of not more than four dwelling units.

10. "Facility" means the facility or facilities designated by the City to which the hauler shall deliver all recyclable material collected by the hauler.

11. "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)

12. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.
(Code of Iowa, Sec. 455B.361(1))

13. "Non-recyclable material" means any material not defined as "recyclable material."

14. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

15. "Recyclable material" means material accepted by the Agency as recyclable. The Agency will provide the parameters on which material will be accepted through its recycling operations. This information will be provided to the public on a regular basis and will also be available at City Hall.

16. "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)

17. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.
(IAC, 567-20.2[455B])

18. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.
(IAC, 567-100.2)

19. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.
(IAC, 567-100.2)

20. "Sanitary disposal project" means all facilities and appurtenances, including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated by the Agency to facilitate the final disposition of solid waste. The term includes any sanitary landfill, transfer station, or resource recovery system owned or operated by the Agency.
(Code of Iowa, Sec. 455B.301)

21. "Set out" means the action event or instance comprised of the proper placement of the home storage containers of recyclable material for collection at the eligible residence.

22. "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 motor vehicles, if approved by the Agency. The term excludes yard waste and may

exclude other materials as defined by the Agency. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the *Federal Resource Conservation and Recovery Act*, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the *Atomic Energy Act* of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

23. "Yard waste" means organic debris such as grass clippings, leaves, garden waste, prunings, weeds, brush, and tree branches produced as a part of yard and garden development and maintenance. Yard waste does not include tree stumps.

24. "Landscape waste" means any vegetable or plant wastes, except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

25. "Structure" means any building, house, shed, garage, outbuilding, storage building, carport, awning, or other such property which is constructed with any combination of walls or a roof.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation, or fire hazard.

105.05 OPEN BURNING RESTRICTED. It shall be unlawful for any person to open burn or to permit open burning of any refuse, rubbish, garbage, landscape waste, or other combustible material within the City except as outlined below, and only then in the presence of a competent adult and with a water supply or fire extinguisher in close proximity:

1. Charcoal or Gas Cooking Grills. This section shall not apply to the use of commercially manufactured cooking grills which burn commercially sold charcoal, untreated seasoned dry wood, propane, or natural gas. Charcoal burners and other open-flame cooking devices which produce ash or embers shall not be operated on combustible balconies or within 10 feet of multi-story buildings, such as apartment buildings or condominiums in accordance with Section 308.8.1 of the Fire Code – Open Flame Cooking Devices.

2. Outdoor Patio Heaters. This section shall not apply to the use of commercially manufactured outdoor patio heaters which use propane or similar fuels as the fuel source.

3. Commercially Manufactured Outdoor Recreational Fireplaces with A Chimney. This section shall not apply to commercially manufactured outdoor recreational fireplaces which include, as part of the original manufacturer design, a chimney through which all products of combustion must pass before entering the open air. Furthermore, any substance used as fuel in these devices shall be only such substance as is commercially sold for the purpose of combustion within such devices; only untreated seasoned dry wood shall be used as fuel in such devices. No commercially manufactured outdoor recreational fireplace shall be utilized within 25 feet of any structure, nor within 10 feet of any fence made of combustible materials, within the City. Any smoke or other products of combustion shall rise above the roofline of residential homes in the area where the device is being used.

4. Permanent Outdoor Fireplaces Designed and Built as Part of a Landscaping Design. This section shall not apply to permanent outdoor fireplaces designed and built as part of a landscape design, provided only untreated seasoned dry wood or charcoal is used as fuel, and the individual pieces of wood or charcoal are no larger than two inches in diameter. Outdoor fireplaces shall be a minimum of 10 feet from any structure, and they must be designed and built with a chimney through which products of combustion shall pass before entering open air space. General landscape waste, refuse, and garbage shall not be burnt in any permanent outdoor fireplace within the City. Any smoke or other products of combustion must rise above the roofline of residential homes in the area where the device is being used.

5. Any open burning which is offensive or objectionable because of smoke or odor emission which does not meet the criteria in this Code related to the smoke and products of combustion rising above the roofline of residential homes in the area, or when atmospheric conditions or local circumstances making fires hazardous, shall be prohibited.

6. There shall be no open burning if County is under a burn ban issued by the State Fire Marshal.

105.06 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection of any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including, but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)
(IAC, 567-102.13(2) and 400-27.14(2))

105.07 TREATMENT PENDING COLLECTION. All solid waste consisting of waste animal and vegetable matter, which may attract flies, dogs, or rodents, shall be drained of all excess liquid, wrapped in paper or disposable containers, and placed or stored, until collection, in covered suitable containers.

105.08 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall utilize and at all times maintain in good order and repair portable containers for solid waste and refuse provided by the City or the City's solid waste contractor.

1. Commercial Container Specifications. 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 and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served. Containers for solid waste placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection. No solid waste or solid waste containers shall be deposited by any person upon any sidewalk, crosswalk, roadway, or upon any alley right-of-way so as to obstruct or block pedestrian movement or vehicular traffic.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.09 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 or to deposit any refuse in nonconforming 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. Unlawful Disposal. Dispose of solid waste at any facility or location which is not an approved sanitary disposal project.

4. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

5. Unlawful Collection. Engage in the business of collecting, transporting, processing, or disposing of solid waste or yard waste within the City without a contract therefore with the City or a valid permit therefor.

105.10 RECYCLABLE COLLECTION PROGRAM.

1. Establishment. The City has previously entered into an Agreement with the Metro Waste Authority. This Agreement authorizes and directs the Metro Waste Authority to contract on behalf of the City for the collection of recyclable materials under the Metro Waste Authority's "Curb-It" program. The costs for the purchase of recyclable bins, the costs of educational programs instructing citizens as to the program, and the costs for processing the recyclables collected will be paid for by Metro Waste Authority. The hauler designated by Metro Waste Authority as the Recyclable Collection Hauler will provide collection of recyclable materials once per week to all eligible residents, under the terms and conditions of the contract executed between Metro Waste Authority and the designated hauler.

2. Nonexclusive Agreement. Nothing in the Agreement between the Metro Waste Authority and the City, or Metro Waste Authority and the designated hauler for recyclable material within the City shall be construed or interpreted to constitute the grant of a franchise or exclusive right to the designated hauler to collect all recyclable material within the City.

3. Collection of Recyclable Fees. Charges for the collection of recyclable materials shall be included in each eligible residence's water bill. Such charges are set forth in Section 106.08.

4. Discontinuance of Service. Any resident who fails to remit the total amount of the charges set out in the water bill, including the fees for collection of recyclable materials, shall be sent a notice on the first day following the delinquent date. Such notice shall contain a statement explaining to the customer the availability of informal consultation with designated personnel empowered to correct mistakes and billing. If payment is tendered to the City within 10 days of notice being sent, all services to the residence shall continue uninterrupted. In the event payment is not received, the City shall have the right to discontinue utility services to the residence.

5. Responsibility for Payment of Bill. The owner of a property receiving collection of recyclables shall be responsible for the payment of all charges for such services.

105.11 YARD WASTES.

1. Disposal of Yard Waste. The collection, storage, and disposal of yard waste shall be subject to the following:

A. 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. The owner or occupant may either compost the yard waste on the premises or contain it in bags, containers, or bundles for collection and disposal. All bags or containers must be clearly marked "Yard Waste."

B. Yard Waste Containers. Persons choosing not to manage yard waste on their own property shall place yard waste in bags, containers, or bundles for collection and disposal. Bags shall be any untreated paper bags acceptable to the composting station used by the licensed yard waste collection hauler. When not in approved bags or containers, tree limbs of less than two inches in diameter and brush will be collected provided they are securely tied in bundles not more than 48 inches long or 18 inches in diameter. The weight of any individual bag, container, or bundle shall not exceed 75 pounds.

C. Composting. Back yard composting of yard waste is encouraged. Information about this process is available to all residents and may be obtained from the office of the City Administrator located at the City Hall. Owners and occupants are encouraged to accumulate upon property under their respective control such quantities of yard waste as can be properly composted without creating offensive odors, litter, fire, or vector problems. Such composting so carried out shall be deemed to be an acceptable, alternative disposition of yard waste, and shall satisfy any requirement to separate yard waste contained in this Code.

D. Frequency of Collection. All yard waste not composted shall be collected from residential, commercial, industrial, and institutional premises at least once per week. Yard waste shall be collected on a City-wide basis between March 1 and November 30. City residents may arrange for individual yard waste pickup with the City, or its agent, between December 1 and February 28.

E. Location of Containers. Containers for the storage of yard waste awaiting collection shall be placed at the curb by the owner or occupant of the premise served. Yard waste must be placed a minimum of three feet from other solid waste.

F. Number of Bags or Containers. The number of bags, containers, or bundles containing yard waste which persons may place out for collection shall be unlimited.

G. Time Limit. Bags, containers, or bundles of yard waste shall not be placed for collection more than 48 hours in advance of the regularly scheduled collection day.

2. Licensing of Yard Waste Collection Hauler. No person shall collect, transport, process, or dispose of yard waste generated within the jurisdiction of the City for compensation unless such person holds a valid license issued in accordance with the provisions of this section. In addition to meeting the requirements under this chapter for solid waste collectors, each licensed collector of yard waste shall provide the City a detailed description of the manner in which the collector intends to collect and haul away yard waste. Each such licensed collector shall haul yard waste to a compost site approved pursuant to State or local law or regulation and shall keep an accurate accounting of the amount of such yard waste. Each licensed collector shall submit an annual written report to the City detailing the amount of such yard waste that has been collected and delivered for composting during each month of the reporting year. Any collector licensed under the provisions of this section shall not mix yard waste and solid waste together. The license of any hauler who delivers for disposal yard waste and solid waste mixed together shall be subject to revocation.

3. Containers and Charges. Containers and charges for yard waste collection and disposal shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such containers and corresponding charges may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective containers and corresponding charges shall be kept on file in the office of the City Administrator and be open to inspection during regular business hours. Residents shall purchase their own bags, which are in addition to these charges. No additional charge will be imposed upon a resident for the collection of holiday trees and wreaths.

4. Owner May Transport. Nothing in this section is intended to prevent an owner from transporting yard waste accumulating on the premises of the owner, provided such yard waste is disposed of at composting stations approved pursuant to State or local law or regulation and in accordance with policies established by the composting station.

5. Violations. No person shall place, or cause to be placed, any yard waste into the solid waste collection system of the City. Any person violating any of the provisions of this chapter concerning yard waste shall be guilty of a misdemeanor.

[The next page is 923]

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 Authorization for Charges
106.08 Billing and Collection Procedures

106.01 COLLECTION SERVICE. The City shall provide by contract, with a licensed collector, for the collection of solid waste as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable, and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9(455B))

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY 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 therefore established by the collector's contract.

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 AUTHORIZATION FOR CHARGES.

1. Authority to Establish Rates. The City will fix, establish, maintain, and revise, from time to time whenever necessary, such rates, fees, rentals, or other charges for the use and services of the disposal facilities operated by the Metro Waste Authority, as more fully described in the Agreement for the Collection of Solid Waste and Yard Waste Between Metro Waste Authority and Waste Connections of Iowa, Inc., dated

December 29, 2021, and any subsequent MOU approved by the Council, to always provide in each year revenues sufficient to pay the proportionate share of the City for:

A. Operation and maintenance expenses for said disposal facilities;

B. The principal of and interest on the Solid Waste Disposal Revenue Bonds; and

C. All reserves, renewal, and replacement funds and other funds provided for in the resolution authorizing the issuance of such Solid Waste Disposal Revenue Bonds.

2. Initial Schedule of Rates. An initial schedule of such rates, fees, tolls, and other charges to be levied and collected from the residents of the City for the use and services of said disposal facilities shall be established and put into effect whenever necessary in order for the City to comply with the provisions of its Agreement for the Collection of Solid Waste and Yard Waste Between Metro Waste Authority and Waste Connections of Iowa, Inc., dated December 29, 2021, and any subsequent MOU approved by the Council; provided, however, the City may, in its discretion, apply such other lawfully available moneys it has on hand for such purpose. The applicable monthly rates are identified in the Fee Schedule.

106.08 BILLING AND COLLECTION PROCEDURES.

1. The collector contracted by the City for collection and disposal of solid waste shall be responsible for all billings and collection of fees for its services rendered for collection and disposal. Said collector shall bill City residents on a quarterly basis. The collector shall provide at least 90 days for payment of a delinquent account prior to termination of service and shall not discontinue collection service at any residential unit prior to a written notice sent to the unit. This notice shall state substantially as follows:

Dear Customer:

It has become necessary for us to discontinue your service because of nonpayment. Please contact our office immediately so we can make arrangements to reinstate your service. Thank you.

The collector shall employ reasonable procedures to collect delinquent accounts and shall not harass or exert undue pressure on residents with delinquent accounts.

2. Each delinquent account which is transmitted to the City by the licensed collector shall thereafter be processed for imposition of a lien upon the property benefited as provided by Section 384.84 of the *Code of Iowa*, in the amount of the delinquent account, plus a County administrative fee for each lien certified as provided in Section 384.84 of the *Code of Iowa*, plus a City delinquency fee in the amount of $5.00 to recoup the City's administrative processing costs and lost investment on the unpaid amount. The lien herein provided shall apply only to that property or those properties benefited for which the account is delinquent.

3. The City shall prepare an assessment schedule listing all delinquent solid waste collection accounts transmitted to the City. Such schedule shall show each delinquent account by name of the tenant or record title holder of the benefited property, shall identify each property for which the solid waste collection account is delinquent, and shall show the delinquent amount and delinquency fee to be assessed against each such benefited property. The assessment schedule shall be presented to the Council and,

upon Council approval thereof the Clerk, shall certify and file same with the County Treasurer for filing of liens against the properties shown thereon in the amounts shown thereon; provided, however, if the record title holder of a rental property subject to billing for solid waste collection requests notice as provided in Section 384.84 of the *Code of Iowa*, the Clerk shall give notice of delinquency to said record title holder not less than 10 days prior to certifying delinquent charges for said property to the County Treasurer.

4. Such lien shall be enforced until payment in full of the delinquent amount and delinquency fees shown on the assessment schedule is satisfied by payment of said amounts at the office of the County Treasurer.

[The next page is 931]

CHAPTER 107

SOLID WASTE DISPOSAL

107.01 Definitions
107.02 Disposal of Solid Waste
107.03 Exceptions
107.04 Method of Disposal of Solid Waste
107.05 Declaration of Benefit
107.06 Notice of Contract Payment
107.07 Optional Methods of Providing for Payment of Contract Payment
107.08 Assessment Schedule for Contract Payment
107.09 Approval of Assessment Schedule
107.10 Certification of Assessment Schedule
107.11 Proceeds of Special Assessment

107.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Actual value" means actual value as that term is or may be defined by Section 441.21 of the *Code of Iowa*. It refers to actual value as most recently determined according to law.

2. "Agency" means Metro Waste Authority.

3. "Contract" means the Agreement for the Collection of Solid Waste and Yard Waste Between Metro Waste Authority and Waste Connections of Iowa, Inc., dated December 29, 2021, and any subsequent MOU approved by the Council.

4. "Contract payment" means the amounts paid or required to be paid, from time to time, by the City to the Agency pursuant to the contract.

5. "Disposal project" means a sanitary disposal project as that term is or may be defined by Chapter 455B of the *Code of Iowa*, owned, operated, or used by the Agency pursuant to the contract.

6. "Real estate" means real estate as that term is or may be defined by Section 4.1(13) of the *Code of Iowa*.

107.02 DISPOSAL OF SOLID WASTE. All solid waste generated within the jurisdiction of the City shall be disposed of at the sanitary disposal project.

107.03 EXCEPTIONS. The provisions of Section 107.02 do not apply to:

1. The disposal of organic material which is not potentially injurious to public health or welfare, and which has been gathered and suitably contained for purposes of composting or fertilizing agricultural or flora plots when permission to dispose of such material has been obtained from the owner of the plots where such material is to be deposited; or

2. The filling or grading of property with earth, sand, mud, or other similar materials which are not potentially injurious to public health or welfare when permission for such filling or grading has been obtained from the owner of the property on which such filling or grading is done and when such filling or grading is done in accordance with the provisions of other applicable statutes and ordinances.

107.04 METHOD OF DISPOSAL OF SOLID WASTE. The disposal project owned, operated, and used by the Agency is hereby declared to be available to persons who are owners of real estate within the corporate limits of the City as a method for the disposition of solid waste

generated within the corporate limits of the City pursuant to the contract in accordance with the provisions of Chapter 455B of the of *Code of Iowa*.

107.05 DECLARATION OF BENEFIT. The benefits derived by each individual parcel of real estate subject to taxation within the corporate limits of the City from the contract are hereby declared to be at least equal to the ratio which the actual value of each individual parcel of real estate subject to taxation within the corporate limits of the City bears to the aggregate actual value of all parcels of real estate subject to taxation within the corporate limits of the City.

107.06 NOTICE OF CONTRACT PAYMENT. In the event that the budget of the Agency for any calendar or fiscal year shall provide for a contract payment from the City to the Agency pursuant to the contract during the calendar or fiscal year, the Agency shall, at least 30 days prior to the date fixed by law for the final certification of the budget of the City, notify the City in writing that a contract payment shall be due from the City pursuant to the contract and the amount thereof.

107.07 OPTIONAL METHODS OF PROVIDING FOR PAYMENT OF CONTRACT PAYMENT. Upon receipt by the City of the notice referred to in Section 107.06 hereof, the City shall determine, by resolution, whether it will:

1. Pay said contract payment from funds legally available to pay the same (hereinafter "Option A"); or

2. Assess said contract payment against the real estate subject to taxation within the corporate limits of the City benefited thereby as aforesaid in the manner provided by and for special assessments as hereinafter provided (hereinafter "Option B").

In the event that the City elects Option "A," provision shall be made therefor in the budget of the City.

107.08 ASSESSMENT SCHEDULE FOR CONTRACT PAYMENT. In the event that the City elects Option "B," the Clerk shall prepare an assessment schedule on the following basis:

1. Assessment Rate. The amount of the contract payment shall be divided by aggregate actual value of all parcels of real estate subject to taxation within the corporate limits of the City to determine the contract payment assessment rate (hereinafter "assessment rate").

2. Assessment. The assessment rate shall be multiplied by the actual value of each individual parcel of real estate subject to taxation within the corporate limits of the City to determine the contract payment assessment (hereinafter "assessment") for each such parcel. Assessments shall be expressed in dollars and cents, and cents shall be carried to three digits. If the last digit of the cents of any assessment is less than five, the assessment shall be lowered to the next even cent. If the last digit of the cents of any assessment is five or more, the assessment shall be raised to the next even cent. No assessment shall be less than one cent.

3. Assessment Schedule. The assessments shall be shown on an assessment schedule which shall state a description of the parcel of real estate involved, the name and address of the owner thereof, and the amount of the assessment.

4. Certification. The assessment schedule shall be certified to the Council for approval.

107.09 APPROVAL OF ASSESSMENT SCHEDULE. Upon receipt of the assessment schedule, the Council shall approve the same by resolution.

107.10 CERTIFICATION OF ASSESSMENT SCHEDULE. Upon approval of the assessment schedule by the Council, the Clerk shall certify the assessments to the County Treasurer for collection with, and in the same manner as, general property taxes. Said certification shall be made on or before the last date fixed by law for certification of special assessments for collection in the year in which the contract payment is due

107.11 PROCEEDS OF SPECIAL ASSESSMENT. The Clerk shall receive, deposit, and account for all funds received by the City from said special assessment. Said funds shall be handled as trust and agency funds and shall be expended only upon order of the Council to satisfy contract payments due from the City to the Agency pursuant to the contract. Balances, if any, remaining at the end of any calendar or fiscal year of the City, shall be carried over from year to year.

[The next page is 959]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Term of Franchise
110.03 Representations of Company
110.04 Location of Facilities
110.05 Excavations and Other Work
110.06 Rates
110.07 Annual Report
110.08 Inspection of Company Facilities
110.09 Compliance With City Ordinances
110.10 Franchise Fee
110.11 Exemption from Payment of Franchise Fee
110.12 Remittance of Franchise Fee
110.13 Forfeiture of Franchise; Cure of Defaults
110.14 Reservation of Home Rule Powers
110.15 Maps of Distribution System
110.16 Customer Satisfaction Surveys
110.17 Exercise of Eminent Domain Powers
110.18 Indemnity
110.19 Lease or Assignment of Franchise

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, a State corporation, hereinafter called the "Company," and its successors and assigns, the nonexclusive right and franchise to acquire, construct, erect, maintain, and operate in the City a system for the transmission and distribution of natural gas along, under, over, and upon the streets, avenues, alleys, and public places to serve customers within and outside the City, and to furnish and sell natural gas to the City and its inhabitants. This franchise grants no rights for communications signals other than signals necessary for the operation and maintenance of the Company's natural gas system described herein. Pursuant to Section 364.2(4)(e) of the *Code of Iowa*, the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*, as subsequently amended or changed.[†]

110.02 TERM OF FRANCHISE. This franchise shall remain in effect for a period of 25 years after the effective date of the ordinance codified in this chapter. The City may request amendments to the franchise by providing to the Company written notice of the City's desire to amend said franchise. Such notice shall be given at least 180 days prior to the expiration of the fifteenth or twentieth year of the agreement. If the parties are unable to agree to amend this franchise within 90 days after such notice is given, the City may terminate this franchise agreement. Failure to amend or terminate the franchise at the first option does not render invalid the City's second option to amend or terminate the franchise.

110.03 REPRESENTATIONS OF COMPANY. The Company agrees to provide, construct, install, and maintain its entire system pursuant to Iowa Utilities Board rules and regulations in such condition that it will furnish safe, adequate, efficient, and continuous service. The Company's system shall be of sufficient capacity to supply all reasonable demands of the City and consumers within the City and to provide a reasonable reserve for emergencies. All natural gas service shall be supplied through a meter or other means that shall accurately measure the amount of natural gas supplied to a consumer. All gas pipes, mains, conduits, and other gas facilities shall be placed and maintained so as not to interfere unnecessarily with travel on the City's streets, alleys, and public places or with the proper use of the same, including ordinary drainage, or with the construction or use of the sewers, pipes, drains, and other property of the City, or the flow of water therefrom.

[†] **EDITOR'S NOTE:** Ordinance No. 05-02, adopting a natural gas franchise for the City, was passed and adopted on February 7, 2005. Voters approved the franchise at an election held on March 28, 2005.

110.04 LOCATION OF FACILITIES. The Company shall not locate any new natural gas mains, pipes, or conduits within the City in the public right-of-way without the prior approval of the City; however, the City shall not unreasonably withhold approval of Company's location of Company facilities within public right-of-way. The City reserves to itself the power to impose reasonable regulations on the Company's use of streets. The City reserves the right, by resolution or otherwise, to designate the location of any new natural gas distribution facilities, which designation shall not conflict with Company's adherence to its design standards and such utility regulation as governs its construction of facilities. The City shall work with the Company to ensure, to the extent practicable, that the Company may locate its facilities in the least-cost manner consistent with its design standards and utility regulations and consistent with the City's desire to promote the public safety and welfare and protect public property. The Company shall, at its cost and expense, locate and relocate its installations in, on, over, or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley, or any public improvement of, in, or about any such street or alley, or reasonably promoting the efficient operation of any such improvement.

110.05 EXCAVATIONS AND OTHER WORK. In making excavations or performing other work in the City, the Company shall proceed with such work so as to cause the least possible inconvenience to the public. The Company shall properly protect, according to safety standards generally accepted at the time of placement, all excavations and obstructions by proper shoring, surface plates, barricades, warning lights, and such other or additional devices as circumstances may warrant. The Company shall provide the City with 24 hours' notice to the City prior to commencing work that requires the excavation of the traveled portion of the streets, avenues, or alleys. Emergency repairs are exempted from this notification requirement. The Company shall notify the City of the emergency repair following the completion of said emergency repairs. If, in the opinion of the City's Public Works Department, such excavation or obstruction is not properly and safely protected, the City's Public Works Department shall notify the Company, and the Company shall immediately comply with such reasonable instructions not in conflict with accepted utility safety rules and practices. Company excavations within the public rights-of-way, public areas, and private property within the City shall be refilled within a reasonable time thereafter consistent with accepted utility safety rules and practices. Pavements, sidewalks, curbs, gutters, vegetation, or landscape opened, disturbed, or damaged by the Company shall be promptly restored and replaced with like materials by the Company, at its own expense, and left in a condition as good as or better than before. In the event that the Company fails to comply with this section, the City may do such work as may be needed to properly prepare such pavements, sidewalks, curbs, gutters, vegetation, or landscape, and the cost of such repairs shall be repaid to the City by the Company.

110.06 RATES. The Company shall supply natural gas to consumers within the City at just and reasonable rates. It is recognized that under the statutes of the State, the Iowa Utilities Board of the Iowa Department of Commerce is vested with legal authority to supervise, fix, or change rates and charges authorized to be charged by the Company to natural gas consumers. In the event rates or charges in general, or any class or type of rate or charge shall, during the term of this franchise, cease to be regulated by any State or federal agency, the Council reserves the right to regulate such rates within the City with the costs of such regulation to be borne by the Company, as a part of the Company's cost of doing business and reflected in its rates.

110.07 ANNUAL REPORT. Upon request by the City, the Company shall file with the Council a true copy of the annual report of the Company pertaining to the operation or conduct of the business of the Company under this franchise. The report may be the same as the

Company shall have prepared for such year in the ordinary course of business of the Company and filed with the Iowa Utilities Board. In the event the Council is authorized by State law and undertakes to regulate rates for service within the City, the Company shall provide all information necessary to permit the Council to set just and reasonable rates.

110.08 INSPECTION OF COMPANY FACILITIES. The Company shall inspect its natural gas facilities used to provide natural gas service under this franchise in compliance with standards established by federal and State laws, rules, and regulations. The replacement or repair of natural gas facilities resulting from these inspections shall be completed within a reasonable period of time thereafter. Hazardous conditions shall be corrected promptly.

110.09 COMPLIANCE WITH CITY ORDINANCES. The Company shall, at all times, during the term of this franchise, conform with, submit to, and carry out the provisions of any and all valid ordinances in effect during the term of this franchise, to the full extent allowed by law and to the extent such provisions are not in conflict with this franchise agreement:

1. Relating to any person, firm, or corporation supplying and distributing natural gas to the City or consumers within the City that are now in force or may hereafter be lawfully enacted;

2. Relating to the use of City right-of-way; or

3. Relating to the City's exercise of its police or regulatory powers.

110.10 FRANCHISE FEE. In consideration of the right to construct and maintain such facilities and equipment along, upon, across, and under the streets, highways, avenues, alleys, bridges, and public places of the City, there is hereby imposed upon the Company by the City, and the Company agrees that there shall be collected from Company's retail customers, in accordance with Company tariffs on file with and approved by the Iowa Utilities Board, and remitted by the Company to the City, a franchise fee in an amount up to and including five percent of the gross receipts derived by the Company from the transmission, distribution, transportation, or sale of natural gas to retail customers within the corporate limits of the City (excluding, however, the sale of natural gas to the City for its own use), commencing with gross receipts received on or after the effective date of this franchise. The specific percentage levels for the franchise fee shall be established by separate ordinance and may be different for diverse customer classes. The obligation to pay the fee imposed by this section is modified if:

1. The City permits any other person to sell natural gas to City consumers and pay a franchise fee or its lawful equivalent at a lesser rate than provided in this section, in which case the Company shall collect from its customers and pay at the lesser rate; or

2. If the City adds additional territory by annexation or consolidation and is unable lawfully to impose the franchise fee upon any person selling natural gas to consumers within the additional territory, in which case the franchise fee on the revenue from sales by the Company in the additional territory shall be equal to that of the lowest fee being paid by any other person selling or transmitting natural gas within the additional territory.

110.11 EXEMPTION FROM PAYMENT OF FRANCHISE FEE. If the franchise fee or the Company's ability to collect the fee from its customers is adjudged to be unlawful, invalid, or unconstitutional by final non-appealable regulatory or judicial action, the Company shall be relieved of its obligation to collect from its customers and to remit to the City the franchise fee, the franchise fee shall be deemed to be of no further force and effect as of the date of such adjudication, and the City may request amendments to the franchise. If a refund to customers

by the Company is ordered by such final non-appealable adjudication, the City agrees to repay to the Company such fees as are ordered to be refunded. If the parties are unable to agree to amend the franchise within a reasonable time after the City requests amendments thereto, the City may terminate the franchise.

110.12 REMITTANCE OF FRANCHISE FEE. The Company shall remit the franchise fee to the City Treasurer quarterly on or before May 1, August 1, November 1, and February 1 of each year for the three-month periods ending March 31, June 30, September 30, and December 31, respectively.

110.13 FORFEITURE OF FRANCHISE; CURE OF DEFAULTS. The violation of any material portion of this franchise by the Company, or its successors or assigns, or its failure to promptly perform any of the provisions of this franchise, shall be cause for forfeiture of this franchise and the termination of all rights under this franchise. Such forfeiture shall be accomplished after written notice to the Company by the City, and a continuation of the violation, failure, or default specified in the notice, for at least 60 days from the date the notice was served upon the Company. If either party determines that there is a default under this franchise, the other party shall be given a written notice describing the default, stating whether a forfeiture or termination of the franchise will be sought, and where the default is curable, providing a reasonable time to cure the default, which shall be not less than 30 or more than 180 days.

110.14 RESERVATION OF HOME RULE POWERS. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the Twenty-Fifth Amendment to the State Constitution granting home rule powers to municipalities. To such end, any limitation on the power of the City is to be strictly construed, and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs, and all ordinances and regulations of the City shall be enforceable against the Company unless, and only to the extent, they are irreconcilable with any rights granted to the Company under this chapter.

110.15 MAPS OF DISTRIBUTION SYSTEM. Upon reasonable request, Company shall provide to the City Engineer, on a project specific basis, information indicating the horizontal location, in compliance with One-Call regulation, relative to the boundaries of the right-of-way, of all-natural gas equipment which it owns or over which it has control and which is located in the project right-of-way. Project-specific mapping data shall be provided with the specificity and, if reasonably possible, in the format requested by the City Engineer. Mapping information provided to the City by the Company shall be for the exclusive use of the City in administering the use and occupancy of the public rights-of-way within the City and shall not be provided to or relied on by any person for any other purpose. At the request of the Company, any information requested with respect to the location or type of equipment the Company maintains or plans to install in the right-of-way that qualifies or is designated by the Company as proprietary information or as a trade-secret information under Chapter 550 of the *Code of Iowa*, or qualifies to be kept confidential under Section 22.1 of the *Code of Iowa*, et seq., shall be treated as confidential information or a trade secret and shall not be released to any party by the City.

110.16 CUSTOMER SATISFACTION SURVEYS. At the request of the City, the Company shall provide the City with summaries of the findings of its annual and other periodic customer satisfaction surveys and research. The Company also agrees to respond promptly and

fully to the City's concerns and questions about specific service quality and customer satisfaction matters as and when they are communicated to the Company.

110.17 EXERCISE OF EMINENT DOMAIN POWERS. The Company shall have the power to condemn private property for the purpose of providing natural gas utilities to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting or delivering natural gas in the public interest upon approval of the Council. The Company must establish the necessity for each taking of private property, and when so established, the Council may approve the condemnation of the private property, by resolution. Any such exercise of the eminent domain powers shall be conducted in accordance with this Code.

110.18 INDEMNITY. The Company shall indemnify and hold the City, and its officers, agents, and employees, free and harmless from any and all claims, demands, lawsuits, liability, and damages whatsoever, including all costs and expenses incident thereto, for any and all loss, damage, injury, or death caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation, or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees, or agents.

110.19 LEASE OR ASSIGNMENT OF FRANCHISE. This franchise shall apply to, inure to, and bind the parties hereto and their successors.

[The next page is 969]

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Term of Franchise
111.03 Representations of Company
111.04 Location of Facilities
111.05 Excavations and Other Work
111.06 Rates
111.07 Annual Report
111.08 Inspection of Company Facilities
111.09 Compliance With City Ordinances
111.10 Franchise Fee
111.11 Exemption from Payment of Franchise Fee
111.12 Remittance of Franchise Fee
111.13 Forfeiture of Franchise; Cure of Defaults
111.14 Reservation of Home Rule Powers
111.15 Maps of Distribution System
111.16 Customer Satisfaction Surveys
111.17 Exercise of Eminent Domain Powers
111.18 Indemnity
111.19 Lease or Assignment of Franchise

111.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, a State corporation, hereinafter called the "Company," and its successors and assigns, the nonexclusive right and franchise to acquire, construct, erect, maintain, and operate in the City a system for the transmission and distribution of electric energy along, under, over, and upon the streets, avenues, alleys, and public places to serve customers within and outside the City, and to furnish and sell electric energy to the City and its inhabitants. This franchise grants no rights for communications signals other than signals necessary for the operation and maintenance of the Company's electric system described herein. Pursuant to Section 364.2(4)(e) of the *Code of Iowa*, the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*, as subsequently amended or changed.[†]

111.02 TERM OF FRANCHISE. This franchise shall remain in effect for a period of 25 years from the effective date of the ordinance codified in this chapter. The City may request amendments to the franchise by providing to the Company written notice of the City's desire to amend said franchise. Such notice shall be given at least 180 days prior to the expiration of the fifteenth or twentieth year of the agreement. If the parties are unable to agree to amend this franchise within 90 days after such notice is given, the City may terminate this franchise agreement. Failure to amend or terminate the franchise at the first option does not render invalid the City's second option to amend or terminate the franchise.

111.03 REPRESENTATIONS OF COMPANY. The Company agrees to provide, construct, install, and maintain its entire system pursuant to Iowa Utilities Board rules and regulations in such condition that it will furnish safe, adequate, efficient, and continuous service. The Company's system shall be of sufficient capacity to supply all reasonable demands of the City and consumers within the City and to provide a reasonable reserve for emergencies. All electric energy service shall be supplied through a meter or other means that shall accurately measure the amount of electric energy supplied to a consumer. All poles, wires, conduits, and appliances shall be placed and maintained so as not to interfere unnecessarily with travel on the City's streets, alleys, and public places or with the proper use of the same, including ordinary drainage, or with the construction or use of the sewers, pipes, drains, and other property of the City, or the flow of water therefrom.

[†] **EDITOR'S NOTE:** Ordinance No. 05-01, adopting an electric franchise for the City, was passed and adopted on February 22, 2005. Voters approved the franchise at an election held on March 28, 2005.

111.04 LOCATION OF FACILITIES. The Company shall not locate any new electrical distribution or service line, including poles or other facilities, within the City in the public right-of-way without the prior approval of the City; however, the City shall not unreasonably withhold approval of Company's location of Company facilities within public right-of-way. The City reserves to itself the power to impose reasonable regulations on the Company's use of streets. The City reserves the right, by resolution or otherwise, to designate the location of any new electric distribution or service line, including poles and other facilities, which designation shall not conflict with Company's adherence to its design standards and such utility regulation as governs its construction of facilities. The City shall work with the Company to ensure, to the extent practicable, that the Company may locate its facilities in the least-cost manner consistent with its design standards and utility regulations and consistent with the City's desire to promote the public safety and welfare and protect public property. The Company shall, at its cost and expense, locate and relocate its installations in, on, over, or under any public street or alley in the City in such manner as the City may, at any time, reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley, or any public improvement of, in, or about any such street or alley, or reasonably promoting the efficient operation of any such improvement.

111.05 EXCAVATIONS AND OTHER WORK. In making excavations or performing other work in the City, the Company shall proceed with such work so as to cause the least possible inconvenience to the public. The Company shall properly protect, according to safety standards generally accepted at the time of placement, all excavations and obstructions by proper shoring, surface plates, barricades, warning lights, and such other or additional devices as circumstances may warrant. The Company shall provide the City with 24 hours' notice to the City prior to commencing work that requires the excavation of the traveled portion of the streets, avenues, or alleys. Emergency repairs are exempted from this notification requirement. The Company shall notify the City of the emergency repair following the completion of said emergency repairs. If, in the opinion of the City's Public Works Department, such excavation or obstruction is not properly and safely protected, the City's Public Works Department shall notify the Company, and the Company shall immediately comply with such reasonable instructions not in conflict with accepted utility safety rules and practices. Company excavations within the public rights-of-way, public areas, and private property within the City shall be refilled within a reasonable time thereafter consistent with accepted utility safety rules and practices. Pavements, sidewalks, curbs, gutters, vegetation, or landscape opened, disturbed, or damaged by the Company shall be promptly restored and replaced with like materials by the Company, at its own expense, and left in a condition as good as or better than before. In the event that the Company fails to comply with this section, the City may do such work as may be needed to properly prepare such pavements, sidewalks, curbs, gutters, vegetation, or landscape, and the cost of such repairs shall be repaid to the City by the Company. The Company is authorized and empowered to prune or remove, at Company expense, any tree extending into any street, alley, or public grounds in order to maintain electric reliability and safety, to restore utility service, and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees, as well as all other vegetation management activities undertaken by the Company, shall be in compliance with standards established in Chapter 151, the Company's Electric Facility Inspection and Vegetation Management Plan on file with the Iowa Utilities Board, and the rules and regulations of the Iowa Utilities Board or its successor.

111.06 RATES. The Company shall supply electric energy to consumers within the City at just and reasonable rates. It is recognized that under the statutes of the State, the Iowa Utilities Board of the Iowa Department of Commerce is vested with legal authority to supervise, fix or

change rates and charges authorized to be charged by the Company to electric energy consumers. In the event rates or charges in general, or any class or type of rate or charge shall, during the term of this franchise, cease to be regulated by any State or federal agency, the Council reserves the right to regulate such rates within the City with the costs of such regulation to be borne by the Company, as a part of the Company's cost of doing business and reflected in its rates.

111.07 ANNUAL REPORT. Upon request by the City, the Company shall file with the Council a true copy of the annual report of the Company pertaining to the operation or conduct of the business of the Company under this franchise. The report may be the same as the Company shall have prepared for such year in the ordinary course of business of the Company and filed with the Iowa Utilities Board. In the event the Council is authorized by State law and undertakes to regulate rates for service within the City, the Company shall provide all information necessary to permit the Council to set just and reasonable rates.

111.08 INSPECTION OF COMPANY FACILITIES. The Company shall inspect its electric lines and other facilities used to provide electric service under this franchise in compliance with standards established by the Company's Electric Facility Inspection and Vegetation Management Plan on file with the Iowa Utilities Board and the rules and regulations of the Iowa Utilities Board, or its successor. The replacement or repair of electric facilities resulting from these inspections shall be completed within a reasonable period of time thereafter. Hazardous conditions shall be corrected promptly.

111.09 COMPLIANCE WITH CITY ORDINANCES. The Company shall at all times during the term of this franchise conform with, submit to, and carry out the provisions of any and all valid ordinances in effect during the term of this franchise, to the full extent allowed by law, and to the extent such provisions are not in conflict with this franchise agreement:

1. Relating to any person, firm, or corporation supplying and distributing electric energy to the City or consumers within the City that are now in force or may hereafter be lawfully enacted;

2. Relating to the use of City right-of-way; or

3. Relating to the City's exercise of its police or regulatory powers.

111.10 FRANCHISE FEE. In consideration of the right to construct and maintain such facilities and equipment along, upon, across, and under the streets, highways, avenues, alleys, bridges, and public places of the City, there is hereby imposed upon the Company by the City, and the Company agrees that there shall be collected from Company's retail customers, in accordance with Company tariffs on file with and approved by the Iowa Utilities Board, and remitted by the Company to the City, a franchise fee in an amount up to and including five percent of the gross receipts derived by the Company from the transmission, distribution, or sale of electric energy to retail customers within the corporate limits of the City (excluding, however, the sale of electric energy to the City for its own use), commencing with gross receipts received on or after the effective date of this franchise. The specific percentage levels for the franchise fee shall be established by separate ordinance and may be different for diverse customer classes. The obligation to pay the fee imposed by this section is modified if:

1. The City permits any other person to sell electrical energy to City consumers and pay a franchise fee or its lawful equivalent at a lesser rate than provided in this section, in which case the Company shall collect from its customers and pay at the lesser rate; or

2. The City adds additional territory by annexation or consolidation and is unable lawfully to impose the franchise fee upon any person selling electrical energy to consumers within the additional territory, in which case the franchise fee on the revenue from sales by the Company in the additional territory shall be equal to that of the lowest fee being paid by any other person selling or transmitting electrical energy within the additional territory.

111.11 EXEMPTION FROM PAYMENT OF FRANCHISE FEE. If the franchise fee or the Company's ability to collect the fee from its customers is adjudged to be unlawful, invalid, or unconstitutional by final non-appealable regulatory or judicial action, the Company shall be relieved of its obligation to collect from its customers and to remit to the City the franchise fee, the franchise fee shall be deemed to be of no further force and effect as of the date of such adjudication, and the City may request amendments to the franchise. If a refund to customers by the Company is ordered by such final non-appealable adjudication, the City agrees to repay to the Company such fees as are ordered to be refunded. If the parties are unable to agree to amend the franchise within a reasonable time after the City requests amendments thereto, the City may terminate the franchise.

111.12 REMITTANCE OF FRANCHISE FEE. The Company shall remit the franchise fee to the City Treasurer quarterly on or before May 1, August 1, November 1, and February 1 of each year for the three-month periods ending March 31, June 30, September 30, and December 31, respectively.

111.13 FORFEITURE OF FRANCHISE; CURE OF DEFAULTS. The violation of any material portion of this franchise by the Company, or its successors or assigns, or its failure to promptly perform any of the provisions of this franchise, shall be cause for forfeiture of this franchise and the termination of all rights under this franchise. Such forfeiture shall be accomplished after written notice to the Company by the City, and a continuation of the violation, failure, or default specified in the notice, for at least 60 days from the date the notice was served upon the Company. If either party determines that there is a default under this franchise, the other party shall be given a written notice describing the default, stating whether a forfeiture or termination of the franchise will be sought, and where the default is curable, providing a reasonable time to cure the default, which shall be not less than 30 or more than 180 days.

111.14 RESERVATION OF HOME RULE POWERS. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the Twenty-Fifth Amendment to the State Constitution granting home rule powers to municipalities. To such end, any limitation on the power of the City is to be strictly construed, and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs, and all ordinances and regulations of the City shall be enforceable against the Company unless, and only to the extent, they are irreconcilable with any rights granted to the Company under this chapter.

111.15 MAPS OF DISTRIBUTION SYSTEM. Upon reasonable request, Company shall provide to the City Engineer, on a project specific basis, information indicating the horizontal location, in compliance with One-Call regulation, relative to the boundaries of the right-of-way, of all equipment which it owns or over which it has control and which is located in the project right-of-way. Project-specific mapping data shall be provided with the specificity and, if reasonably possible in the format requested by the City Engineer. Mapping information provided to the City by the Company shall be for the exclusive use of the City in administering

the use and occupancy of the public rights-of-way within the City and shall not be provided to or relied on by any person for any other purpose. At the request of the Company, any information requested with respect to the location or type of equipment the Company maintains or plans to install in the right-of-way that qualifies or is designated by the Company as proprietary information or as a trade-secret information under Chapter 550 of the *Code of Iowa*, or qualifies to be kept confidential under Section 22.1 of the *Code of Iowa*, et seq., shall be treated as confidential information or a trade secret and shall not be released to any party by the City.

111.16 CUSTOMER SATISFACTION SURVEYS. At the request of the City, the Company shall provide the City with summaries of the findings of its annual and other periodic customer satisfaction surveys and research. The Company also agrees to respond promptly and fully to the City's concerns and questions about specific service quality and customer satisfaction matters as and when they are communicated to the Company.

111.17 EXERCISE OF EMINENT DOMAIN POWERS. The Company shall have the power to condemn private property for the purpose of providing electric utilities to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting electricity in the public interest upon approval of the Council. The Company must establish the necessity for each taking of private property, and when so established, the Council may approve the condemnation of the private property by resolution. Any such exercise of the eminent domain powers shall be conducted in accordance with this Code.

111.18 INDEMNITY. The Company shall indemnify and hold the City and its officers, agents, and employees free and harmless from any and all claims, demands, lawsuits, liability, and damages whatsoever, including all costs and expenses incident thereto, for any and all loss, damage, injury, or death caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation, or maintenance of the electric facilities authorized by this franchise; provided, however, the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees, or agents.

111.19 LEASE OR ASSIGNMENT OF FRANCHISE. This franchise shall apply to, inure to, and bind the parties hereto and their successors.

[The next page is 979]

CHAPTER 112

FRANCHISE FEES

112.01 Electric Franchise Fee
112.02 Gas Franchise Fee
112.03 Gas Sold by Third-Party Suppliers
112.04 Exemptions

112.01 ELECTRIC FRANCHISE FEE. Commencing with electric bills rendered by MidAmerican Energy Company (the "Company") to utility customers within the corporate limits of the City on or after May 1, 2005, and for so long as the franchise granted by Ordinance No. 05-01 is in effect, there is hereby imposed on the Company, and it shall be the Company's obligation to collect from its customers and remit to the City, a franchise fee in an amount equal to a percentage of the gross receipts, minus uncollectible amounts, derived by the Company from the transmission, distribution, and sale of electric energy to retail customers within the corporate limits of the City at the following percentage levels:

1. Residential Customers - five percent.

2. Commercial Customers - three percent.

3. Public Authority Customers (other than the City and public schools) - three percent.

112.02 GAS FRANCHISE FEE. Commencing with natural gas bills rendered by the Company to its customers within the corporate limits of the City on or after May 1, 2005, and for so long as the franchise granted by Ordinance No. 05-02 is in effect, there is hereby imposed on the Company, and it shall be the Company's obligation to collect from its customers and remit to the City, a franchise fee in an amount equal to a percentage of the gross receipts, minus uncollectible amounts, derived by the Company from the transmission, distribution, transportation, and sale of natural gas to retail customers within the corporate limits of the City at the following percentage levels:

1. Residential Customers - five percent.

2. Commercial Customers - three percent.

3. Public Authority Customers (other than the City and public schools) - three percent.

112.03 GAS SOLD BY THIRD-PARTY SUPPLIERS. With respect to the distribution or transportation by the Company of natural gas sold to the customer by a third-party supplier of the commodity, the percentage of gross receipts shall be applied to the customer's full cost of gas delivered within the City, including all costs of acquisition, ownership, and transportation whereof, wherever incurred. In determining the amount of the fee, the Company may presume that the customer's commodity cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided.

112.04 EXEMPTIONS. Gross receipts derived from the transmission, distribution, transportation, and sale of natural gas and the transmission, distribution, and sale of electric energy to public schools and to the City for its own use are exempt from the franchise fee, and the franchise fee shall not be assessed to such customers.

[The next page is 985]

CHAPTER 113

CABLE TELEVISION REGULATIONS

113.01 Compliance with Applicable Laws
113.02 Installation and Maintenance of Property
113.03 Interference
113.04 Installation of Cables
113.05 City Use of Existing Poles
113.06 Prior Approval of Underground Installations
113.07 Restoration of Ground Surface
113.08 Alteration of Grade
113.09 Temporary Removal of Cables
113.10 Tree Trimming
113.11 Service Requirements
113.12 Performance Standards
113.13 Channel Capacity and Performance
113.14 Subscriber Terminals in City Buildings and Schools
113.15 Use of Education and Local Government Access Channels
113.16 Emergency Warning System
113.17 Telecast of Educational Activities
113.18 Color Cablecasting
113.19 Program Alteration
113.20 Subscriber Rates and Charges
113.21 Service Rules and Regulations
113.22 Service Agreements
113.23 Office of Cable Operator
113.24 Procedure to Handle Complaints and Grievances
113.25 Injury to Property of the Cable Operator
113.26 Intercepting Signals of the Cable Operator
113.27 Filing of Reports
113.28 Filing of Audit
113.29 Filing of Maps and Plats
113.30 Filing of Communications with Regulatory Agencies
113.31 Access
113.32 Discrimination Prohibited
113.33 Other Business Activities Prohibited
113.34 Franchise Fee

113.01 COMPLIANCE WITH APPLICABLE LAWS. The cable operator shall comply with all governmental laws, ordinances, rules, or regulations as may now or hereafter be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property, and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

113.02 INSTALLATION AND MAINTENANCE OF PROPERTY. The property of the cable operator shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic, or use of public property or private property.

113.03 INTERFERENCE. The cable operator's cable television system shall be so designed, engineered, and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the cable operator.

113.04 INSTALLATION OF CABLES. The cable operator shall have the right, privilege, and authority to lease, rent, or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cable, and other equipment and facilities from any and all holders of public licenses and franchises within the City, and to use such poles, conduits, trenches, ducts, lines, and cable in the course of its business. The cable operator shall install its cable on existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when the holder of another public license or franchise has installed underground cable, then in that event, the cable used by the cable operator shall be installed underground.

113.05 CITY USE OF EXISTING POLES. The City shall and does hereby retain the right to utilize the existing poles for future City use, and to require the removal of the cable by the cable operator where existing poles are not sufficient to adequately handle the proposed City use and the cable operator's cable.

113.06 PRIOR APPROVAL OF UNDERGROUND INSTALLATIONS. The cable operator shall submit detailed drawings of all proposed underground cable installations to the City for approval prior to commencement of construction and shall not deviate therefrom without approval of the City.

113.07 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway, or other surfacing, the cable operator shall, at its own cost and expense, and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed in as good a condition as before said work was commenced.

113.08 ALTERATION OF GRADE. In the event that the City shall elect to alter or change the grade of any street, alley, or public way, the cable operator, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

113.09 TEMPORARY REMOVAL OF CABLES. The cable operator shall, on the request of any person holding a building permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the cable operator shall have the authority to require such payment in advance. The cable operator shall be given not less than five days' advance notice to arrange for such temporary cable changes.

113.10 TREE TRIMMING. The cable operator shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cable of the cable operator. All trimming shall be done under the supervision and direction of the City and at the expense of the cable operator.

113.11 SERVICE REQUIREMENTS. The cable operator shall furnish reasonable, adequate, and efficient cable television service to subscriber terminals. The foregoing requirement may be temporarily suspended due to circumstances beyond the reasonable control of the cable operator.

113.12 PERFORMANCE STANDARDS. The cable operator shall produce a picture in black and white or in color that is undistorted, free from ghost images, and accompanied by proper sound on typical standard television sets in good repair. The cable operator shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

113.13 CHANNEL CAPACITY AND PERFORMANCE. The cable television system of the cable operator shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

113.14 SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS. The cable operator shall, at its sole cost, install and maintain subscriber terminals in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location or locations within such buildings as may be designated by the governing body having jurisdiction thereof.

113.15 USE OF EDUCATION AND LOCAL GOVERNMENT ACCESS CHANNELS. The cable operator shall, at its sole cost, make available to the City, or its assigns, at least one channel to be used by the City, or its assigns, for any purpose. The cable operator shall, at its sole cost, make available to recognized educational authorities within the City, both public and private, at least one channel to be used by them for any purpose. The cable operator shall, at its sole cost, make available to the City and recognized educational authorities within the City, both public and private, at reasonable times and on reasonable notice, the use of its studio, other production facilities, and related equipment for origination cablecasting. In addition, thereto, the cable operator shall provide, at its sole cost, such technical assistance as may be reasonably necessary to produce such origination cablecasting.

113.16 EMERGENCY WARNING SYSTEM. The cable operator shall equip its cable television system with an emergency warning override so that emergency information can be given simultaneously on all channels of the system. During an emergency, the cable operator shall allow the City the complete use of the system.

113.17 TELECAST OF EDUCATIONAL ACTIVITIES. The cable operator shall not cablecast, tape, reproduce, or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

113.18 COLOR CABLECASTING. The cable television system of the cable operator shall be capable of color cablecasting. Any signal received by the cable operator in color shall be cablecast in color.

113.19 PROGRAM ALTERATION. Any signal received by the cable operator from a television broadcast station shall be cablecast by the cable operator in its entirety, as received, without alteration.

113.20 SUBSCRIBER RATES AND CHARGES. All rates for service shall be reasonable, compensatory, and nondiscriminatory.

113.21 SERVICE RULES AND REGULATIONS. The cable operator shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. The cable operator shall file such rules and regulations, and all amendments thereto, with the City.

113.22 SERVICE AGREEMENTS. The cable operator shall have the right to prescribe a reasonable form of service agreement for use between the cable operator and its subscribers. The cable operator shall submit its proposed form of service agreement, and all proposed amendments thereto, to the City for approval.

113.23 OFFICE OF CABLE OPERATOR. The cable operator shall maintain an office within the County for the purpose of receiving, investigating, and responding to complaints and grievances with respect to the quality of the service rendered by the cable operator, equipment malfunctions, and other similar matters pertaining to the cable television system of the cable operator.

113.24 PROCEDURE TO HANDLE COMPLAINTS AND GRIEVANCES. The procedure to handle complaints and grievances with respect to the quality of the services rendered by the cable operator, equipment malfunctions, and other similar matters pertaining to the cable television system of the cable operator shall be as follows:

1. Filing of Complaint. Within 30 days after the occurrence of the facts and circumstances giving rise to a complaint or grievance, and not thereafter, the complainant shall state the complaint or grievance to the cable operator in writing. In the event that a complaint or grievance is received by the City, the City shall forward such complaint or grievance to the cable operator in writing.

2. Response by Cable Operator. Within five days after the receipt of a complaint or grievance to the cable operator, the cable operator shall state to the complainant its intentions with respect to the complaint or grievance in writing.

3. Arbitration. In the event that the complaint or grievance is not resolved to the satisfaction of the complainant within 15 days after the receipt thereof by the cable operator, the complaint or grievance shall be settled by arbitration. Such arbitration shall be before three disinterested arbitrators, one named by the complainant, one named by the cable operator, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

On or before the tenth day of each calendar month, the cable operator shall file a report in writing with the City stating the date and substance of each complaint or grievance received by it during the preceding calendar month, the date and nature of the action taken by the cable operator with respect thereto, and, if still pending, the status thereof.

113.25 INJURY TO PROPERTY OF THE CABLE OPERATOR. No person shall wrongfully or unlawfully injure the property of the cable operator.

113.26 INTERCEPTING SIGNALS OF THE CABLE OPERATOR. No person shall wrongfully or unlawfully intercept the signals of the cable operator.

113.27 FILING OF REPORTS. On or before April 1 of each year, the cable operator shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

113.28 FILING OF AUDIT. On or before April 1 of each year, the cable operator shall file with the City an audit of its operations within the City during the preceding calendar year.

113.29 FILING OF MAPS AND PLATS. On or before April 1 of each year, the cable operator shall file with the City maps and plats showing the location and nature of all property of the cable operator within the City as of the end of the preceding calendar year.

113.30 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The cable operator shall file with the City copies of all petitions, applications, and communications

submitted by the cable operator to any regulatory agency having jurisdiction over the cable operator.

113.31 ACCESS. The cable operator shall and does hereby grant to the City the right to enter upon the property of the cable operator, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

113.32 DISCRIMINATION PROHIBITED. The cable operator shall not grant any undue preference or advantage to any person or subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

113.33 OTHER BUSINESS ACTIVITIES PROHIBITED. The cable operator shall not engage in the business of selling, leasing, renting, or servicing television or radio receivers, or their parts and accessories, and the cable operator shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

113.34 FRANCHISE FEE. On or before April 1 of each year the cable operator shall pay to the City, at the office of the City, in lawful money of the United States, a franchise fee based upon a percentage of the gross subscriber receipts received by the cable operator from the operation of its cable television system within the City during the preceding calendar year. Such fee shall be based on such percentage of said gross receipts as may be approved by the FCC, but in no event shall the same be less than five percent of said gross receipts. Any franchise fee not paid when due shall bear interest at the rate of nine percent per annum from the date due. The franchise fee shall not be considered to be in the nature of a tax.

[The next page is 1047]

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a retail alcohol license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122, and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a retail alcohol license, 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 for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

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

120.05 PROHIBITED SALES AND ACTS. A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49(1))

2. Sell or dispense any alcoholic beverage on the premises covered by the license, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

(Code of Iowa, Sec. 123.49(2)(b))

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel

or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49(2)(c))

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) "Bar" means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

(Code of Iowa, Sec. 142D.2(1))

(2) "Restaurant" means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

(Code of Iowa, Sec. 142D.2(17))

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee's parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer's dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

(Code of Iowa, Sec. 123.49(2)(f))

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49(2)(i))

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.

(Code of Iowa, Sec. 123.49(2)(a))

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

(Code of Iowa, Sec. 123.49(2)(j))

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the State Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to Section 123.49, Subsection 2, Paragraph D, Subparagraphs (2), (3), and (4) of the *Code of Iowa*.

(Code of Iowa, Sec. 123.49(2)(d)(2), (3), and (4))

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents, or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49(2)(e))

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49(2)(g))

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49(2)(k))

12. Sell, offer to sell, dispense, or serve for on-premises consumption an unlimited number of servings of alcoholic liquor, wine, or beer for a fixed price. Nothing in this Subsection 12 shall be construed to prohibit a holder of an on-premises liquor control license or wine or beer permit, or its employees or agents, from:

A. Including drinks containing an alcoholic beverage or beer as part of a hotel or motel package which includes overnight accommodations; or

B. Providing a fixed price for an unlimited number or indefinite quantity of drinks containing an alcoholic beverage or beer for a private event. A private event is defined as an event restricted to a particular group or persons, provided that the licensee or permittee shall provide means or method by which to

identify persons participating in the private event, such as the use of a separate room or an identification tag or badge; or

C. As otherwise permitted for a special event by the Council (provided, however, that no license or permit holder shall be allowed to hold such a special event under this paragraph C more than twice per calendar year).

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a retail alcohol license, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

[The next page is 1055]

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 City Approval
121.05 Fees
121.06 Issuance
121.07 Expiration
121.08 Refunds
121.09 Persons Under Legal Age
121.10 Self-Service Sales Prohibited
121.11 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "Alternative nicotine product" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the *Federal Food, Drug, and Cosmetic Act*.

2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.

3. "Department" means the State Department of Revenue.

4. "Place of business" means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.

5. "Retailer" means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.

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. "State permit" means and includes all permits issued by the department under Chapter 453A of the *Code of Iowa* except the permits issued to retailers approved by cities and counties pursuant to Section 453A.13 and 453.47A of the *Code of Iowa*.

8. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds

and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

9. "Vapor product" means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. "Vapor product" includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the *Federal Food, Drug, and Cosmetic Act*.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13(1))

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A(1))

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

(Code of Iowa, Sec. 453A.47A(4))

121.03 APPLICATION. A retailer shall submit to the department an application on forms furnished by the department, accompanied by the required fees and adequate bond as provided in Section 453A.14, of the *Code of Iowa*. Applications, any supporting documentation, and the associated fees shall be submitted electronically to the department.

(Code of Iowa, Sec. 453A.13(5))

121.04 CITY APPROVAL. The City shall approve retail permit applications for applicants with a place of business within the City limits. The City shall use the electronic portal of the department to process retail permit applications. Upon approval of a retail permit application by the City the department shall issue the permit to the applicant on behalf of the City.

(Code of Iowa, Sec. 453A.13(2))

121.05 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	$75.00
October, November, or December	$56.25
January, February, or March	$37.50
April, May, or June	$18.75

121.06 ISSUANCE. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable.

(Code of Iowa, Sec. 453A.13(9))

121.07 EXPIRATION. All permits shall expire on June 30 of each year. A permit shall not be granted or issued until the applicant has paid the fees to the department for the next period ending on June 30.

(Code of Iowa, Sec. 453A.13(3)(a))

121.08 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.09 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of $300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 60 days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason

for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36(6))

121.10 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.11 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 Revenue within 30 days of the revocation or suspension.

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

[The next page is 1063]

CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Definitions
122.02 Permit Required
122.03 Application for Permit
122.04 Permit Fees
122.05 Bonds Required
122.06 Permit Issued
122.07 Display of Permit
122.08 Permit Not Transferable
122.09 Time Restriction
122.10 Revocation of Permit
122.11 Notice
122.12 Hearing
122.13 Record and Determination
122.14 Appeal
122.15 Effect of Revocation
122.16 Rebates
122.17 Permit Exemptions
122.18 Prohibited Acts

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

1. "Peddler" means any person, carrying goods or merchandise or offering services who sells or offers for sale for immediate delivery such goods, merchandise, or services from house to house or upon the public street or right-of-way.

2. "Solicitor" means any person who solicits, or attempts to solicit, from house to house or upon the public street or right-of-way any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.

3. "Panhandler" means any solicitation made in person requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section. Panhandling does not include passively standing or sitting, without addressing any solicitation to any specific person.

4. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and, in the course of such business, hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.02 PERMIT REQUIRED. Any person engaging in peddling, soliciting, or panhandling or in the business of a transient merchant in the City without first obtaining a permit as herein provided is in violation of this chapter.

122.03 APPLICATION FOR PERMIT. An application in writing shall be filed with the Police Chief for a permit under this chapter. The applicant shall provide the following information:

1. Applicant's name;

2. Permanent and local address and contact information;

3. Business address, if any;

4. Physical description and a government-issued photo I.D.;

5. Applicant's employer, if any, and the employer's address;

6. The nature of the applicant's business;

7. The last three places of such business;

8. The length of time sought to be covered by the permit;

9. Whether applicant has been listed on any sex offender registry within the last five years;

10. Whether applicant has had a peddler, solicitor, panhandling, or transient merchant permit suspended, revoked, or denied by this or any other city in the last five years and the reasons therefore;

11. License plate numbers of applicants; and

12. Current headshot of applicant. Photos may be posted to the City's website and social media to allow for resident identification.

122.04 PERMIT FEES. Permit fees in amounts set in the Fee Schedule shall be paid to the Police Chief, or their designee, prior to the issuance of any permit. There is no permit fee in conjunction with City sponsored events or activities.

122.05 BONDS REQUIRED.

1. Before a permit under this chapter is issued to a transient merchant, an applicant shall provide to the Police Chief evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

2. At the time of filing of the application and as a part thereof, any applicant without a place of residence or place of business in the State shall file with the Police Chief a bond, with sureties to be approved by the Police Chief, in a penal sum of $1,000.00 running to the City, 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 applicant's employer. The bond is to be further conditioned for the payment of any fines that may be assessed by any court against the applicant for a violation of this chapter and further conditioned for the payment and satisfaction of any and all causes of action against the applicant commenced within one year from the date of sale of any merchandise. The aggregate liability of the surety for all fines and causes of action shall not exceed the principal sum of the bond.

122.06 PERMIT ISSUED. The Police Chief, upon review of the permit application with the Police Department and any other appropriate department or agency, shall determine whether a permit will be issued to the applicant. A waiting period of not less than three business days from the date of the application shall be in effect to provide sufficient time for the fact-gathering process to be completed in a reasonable period. In making their decision, the following factors shall be considered:

1. The information in the application is found to be correct.

2. All information required has been provided and the application is complete.

3. The required bond is paid.

4. Prior peddler, solicitor, panhandler, or transient merchant permits issued to applicant and whether any such permits were suspended or revoked.

If the determination is made that the application satisfies the above factors and the applicant is not a risk to public safety, a permit shall be issued upon payment of the bond and any other fees set forth in the schedule of fees adopted by the Council by resolution. A denial of a permit may be appealed in the same manner and under the same procedures stated at Section 122.14.

122.07 DISPLAY OF PERMIT. Each peddler, solicitor, and panhandler shall keep such permit in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the permit as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's permit in the merchant's place of business.

122.08 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.09 TIME RESTRICTION. All peddler, solicitor, and panhandler permits shall provide that said permits are in force and effect Monday through Saturday from 9:00 a.m. to 9:00 p.m. and Sunday from 9:00 a.m. to 7:00 p.m.

122.10 REVOCATION OF PERMIT. After notice and hearing, the Police Chief may revoke any permit issued under this chapter for the following reasons:

1. Fraudulent Statements. The permit holder has made fraudulent statements in the application for the permit or in the conduct of the business.

2. Violation of Law. The permit holder has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health, or Safety. The permit holder has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

122.11 NOTICE. The permit holder shall be served with written notice containing particulars of any complaint against the permit holder, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Police Chief, with assistance of the City Attorney, shall conduct a hearing at which the permit holder shall be present to determine the truth of the acts alleged in the complaint and notice. Should the permit holder, or authorized representative, fail to appear without good cause, the Police Chief may use the failure to appeal as evidence in support of revocation of the permit.

122.13 RECORD AND DETERMINATION. The Police Chief, with advice of the City Attorney, shall make and record findings of fact and conclusions of law, and shall revoke a permit when the record establishes evidence of a violation of this chapter or State law.

122.14 APPEAL. If the Police Chief revokes or refuses to issue a permit, there shall be a record setting forth the reasons for said decision. The permit holder or applicant shall have a right to a hearing before the Council at one of the next two regular meetings. The Council may reverse, modify, or affirm the decision of the Police Chief, or their designee, by a majority vote of the Council members present.

122.15 EFFECT OF REVOCATION. Revocation of any permit shall bar the permit holder from being eligible for any permit under this chapter for a period of at least one year from the date of the revocation.

122.16 REBATES. No permit holder shall be entitled to a rebate of part of the fee paid if the permit is revoked or surrendered before it expires.

122.17 PERMIT EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing area schools or school districts conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

7. Charitable and Nonprofit Organizations. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa*. All such organizations seeking to act as a peddler, solicitor, panhandler, or transient merchant are required to submit in writing to the Police Chief the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If it is found that the organization is a bona fide charity or nonprofit organization, such charity or organization shall be issued, free of charge, a permit. In the event the permit is denied, the authorized representatives of such charity or organization may appeal the decision to the Council, as provided in Section 122.14.

8. City Employees. City Employees acting in an extension of their job duties and with the written authorization of their employer. Permits are required for each type of permit use, however, individual City employees are not required to complete individual permits.

9. Temporary Food and Beverage Facilities. Persons who have a valid temporary food and beverage facility permit as defined by City ordinance.

10. Community Event Center Lessee. Persons who possess or are authorized merchants of the Community Event Center lessee while on the physical property or immediately adjacent to the Community Event Center.

11. Religious Organizations.

12. Political Organizations.

13. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3(15))

122.18 PROHIBITED ACTS. It is unlawful for any person, with or without a permit under this chapter, to conduct peddling, solicitation, panhandling, or transient merchant business:

1. With any person situated in a motor vehicle upon any public street, alley, driveway access, or public way.

2. Upon any part of the public right-of-way or along a parade route on the day of any permitted parade.

3. By blocking the path of the person solicited along a street.

4. By doing business or attempting to do business upon any property which has a posted notice prohibiting peddling, solicitation, or panhandling.

5. By using profane or abusive language, either during the solicitation or following a refusal.

6. By panhandling in a group of three or more persons.

7. While under the influence of alcohol or any illegal narcotic or controlled substance.

8. By any statement, gesture, or other communication, which a reasonable person in the situation of the person solicited, would perceive to be a threat, harassment, intimidation, or coercion.

[The next page is 1073]

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee
123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk on a form provided by the City. 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, Public Works Director, 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 $5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – $250,000.00 per person; $1,000,00,000.00 per accident.

2. Property Damage – $300,000.00 per accident.

123.06 PERMIT FEE. A permit fee in an amount set in the Fee Schedule. 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 flag persons 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 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 inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television, and electric wires and poles are removed when necessary and replaced in good order and shall be liable for the costs of the same.

[The next page is 1079]

CHAPTER 124

PAWNBROKERS

124.01 Definitions
124.02 Location of Pawnbroker Businesses
124.03 Compliance with Chapter Provisions
124.04 License Fees
124.05 License
124.06 Expiration Date of License
124.07 Separate License for Each Place of Business
124.08 Nonpayment of License Fee Misdemeanor
124.09 Records
124.10 Daily Reports to Police Chief
124.11 Prohibited Acts
124.12 Articles of Clothing
124.13 Searching for Stolen Property
124.14 Examination of Premises by Officers
124.15 Hours of Operation
124.16 Disposing of Stolen Goods or Goods for Which There Is an Adverse Claim
124.17 Grounds for Revocation of License
124.18 Revocation Procedure
124.19 Effect of Revocation
124.20 Summary Suspension

124.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this chapter, have the meanings given in this section:

1. "Negative police report" means a report or review compiled by the Police Chief, which discloses a criminal record of a felony or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the *Code of Iowa*.

2. "Pawnbroker" means every person who makes loans or advancements upon pawn, pledge, or deposit of personal property or who receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale therein, or who, by advertisement, sign, or otherwise, holds themselves out as a pawnbroker.

3. "Positive police report" means a report or review compiled by the Police Chief, which does not disclose a criminal record of a felony or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the *Code of Iowa*.

124.02 LOCATION OF PAWNBROKER BUSINESSES.

1. Locations. No person, whether as principal or agent, clerk, or employee, either for such person or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any pawn shop businesses in the following locations.

A. In any residential area in the City, including upon any sidewalk abutting upon such residential area;

B. Within 1,000 feet of any residentially zoned or used property or any property designated on the City's Comprehensive Plan as residentially oriented.

C. Within 1,000 feet of any parcel of real property upon which is located any of the following facilities:

(1) An elementary school, junior high school, or senior high school.

(2) A church which conducts religious programs.

(3) Park or recreational facilities operated and approved by the City, County, the County Conservation Board, the State, or a not-for-profit institution.

(4) Federal, State, County, City, or special district governmental offices.

(5) Supermarket or convenience market primarily engaged in the sale of food.

(6) Restaurant, fast-food, or food establishment catering to family trade.

D. Within 1,000 feet of any other pawn shop or delayed deposit service business, as defined in Section 124.01 and Section 167.06(4).

2. Measurement of Distance. The distance between any two pawn shops or delayed deposit services businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any pawn shop and delayed deposit services businesses and any religious institution, school or public park, government office, supermarket, restaurant, or any property designated for residential use or used for residential purposes shall be measured in a straight line without regard to intervening structures, from the closest property line of the pawn shop or delayed deposit service business to the closest property line of the religious institution, school, public park, government office, supermarket, restaurant, or the property designated for residential use or used for residential purposes.

3. Restrictions. Visibility into the store shall be maintained by utilizing clear, transparent glass on all windows and doors and by keeping all windows free of obstructions for at least three feet into the store. Products may be displayed for sale in the window provided that the display, including signage, does not occupy more than 30 percent of the window area. Interior and exterior bars, grills, mesh, or similar obstructions, whether permanently or temporarily affixed, shall not cover any exterior door or window.

124.03 COMPLIANCE WITH CHAPTER PROVISIONS.

1. No person shall engage in or carry on the business of pawnbroker in the City without first paying the fee and procuring the license provided for in this chapter, nor shall any person carry on such business in any manner contrary to the provisions of this chapter.

2. Every clerk, servant, agent, or employee of any pawnbroker must be at least 18 years old and shall be subject to and bound by all provisions of this chapter and liable for the same penalties and to the same extent as such person's employer or principal for any violation thereof.

124.04 LICENSE FEES. Any person desiring a pawnbroker license under this chapter shall make a written, signed application to the Clerk on forms provided by the Clerk. All annual fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fees shall be kept on file in the office of the City Administrator and be open to inspection during regular business hours.

124.05 LICENSE.

1. Criteria Considered. Upon receipt of a pawnbroker license application, the Clerk shall forward a copy of the application to the Police Chief, who shall review the application. The applicant shall furnish such evidence as may reasonably be required in support of the statements set forth in the application. The Police Chief shall report to the Clerk within 30 days of receipt of the application considering, but not limited to, the following criteria:

A. The Police Chief shall determine whether the applicant or any of the applicant's agents or employees who will be charged with receiving or distributing property have been convicted of a felony. However, if the conviction of a felony occurred more than five years before the application for a pawnbroker license, and if such person's rights of citizenship have been restored by the Governor, such conviction shall not be a bar to obtaining a pawnbroker license.

B. The Police Chief shall determine whether the applicant has truthfully reported all relevant facts within the pawnbroker application.

C. The Police Chief shall determine if the applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the State and City.

2. Issuance.

A. Upon receipt of a positive police report and the appropriate fees, the Clerk shall approve the application if the applicant has fully complied with all of the requirements of this chapter, and the Clerk shall thereupon issue a pawnbroker license to the applicant and forward a copy of such to the Police Chief. The license shall state the name and place of residence of the person licensed, the business to be transacted, and the place where it is to be carried on, and the date of issuance and expiration of the license.

B. In the event that the Clerk determines that any applicant for a new license or any person seeking a renewal license has not fully complied with all of the requirements of this chapter, or that the Police Chief returns a negative report, or that the applicant has falsified their application, then the Clerk shall, after consultation with the City Attorney, advise the Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing.

124.06 EXPIRATION DATE OF LICENSE. All pawnbrokers' licenses shall expire one year after the date of issue.

124.07 SEPARATE LICENSE FOR EACH PLACE OF BUSINESS. Any person conducting several or separate places of business shall pay the license fee and procure a license for each place of business. The license shall be sufficient for all clerks, agents, servants, or employees engaged or employed at the place named in the license.

124.08 NONPAYMENT OF LICENSE FEE MISDEMEANOR. When any person shall engage in business as a pawnbroker without paying the fee provided therefor and imposed in this chapter, such person shall be guilty of a misdemeanor. Each day said violation continues shall be considered a separate offense.

124.09 RECORDS.

1. Every pawnbroker shall keep a book in which they shall accurately and legibly enter, in ink, in the English language, the following information at the time of purchasing or receiving any personal property:

A. The name of the person from whom the property is purchased or received, the person's place of residence, the person's date of birth, a photo identification of the person, the person's driver's license number, the state of issue of the driver's license, and the expiration date of the driver's license.

B. A particular, detailed, and accurate description of each article, including any serial number.

C. The estimated value of each article.

D. The amount paid, advanced, or loaned for the article.

E. The date and hour of transaction.

F. The date and hour when the article is to be redeemed or bought back.

G. Any mortgage or bill of sale taken, or receipt or pawn ticket given.

H. When, and by whom, an article was bought back or redeemed.

I. When, to whom, and how an article was disposed of, if not redeemed.

2. The license and the book shall, at all times, be open to examination or inspection by any police officer.

3. When the pawn log sheets are complete, or upon demand from the Police Chief, the licensee shall surrender the original sheets to the Police Chief, who shall provide a copy of the sheets to the licensee; the originals shall remain the property of the City. The licensee shall also maintain a record of the name and residential address of any person redeeming an article of property, the date of such transaction, and a description of the article redeemed. In the event property is disposed of other than by redemption, the licensee shall record a description of the property, how disposed, and the name and address to whom the article was transferred. Such redemption and purchase records shall be maintained by the licensee for one year from the date of transaction and shall be at all times open to examination and recordation by the Police Chief.

4. Every pawnbroker shall require each person from whom any property is purchased or received to print and sign their name on any inventory sheet provided by the Police Chief. The inventory sheet shall be the property of the City.

5. Any person is guilty of a misdemeanor who:

A. Fails to keep or maintain such records as required by this chapter.

B. Fails to make the required entries in such records.

C. Intentionally or knowingly makes any false or unintelligible entry, or any entry which he or she has reason to believe is untrue or deletes any entry.

D. Fails to make the inquiries necessary to enable the person to make such entries or any of them.

E. Fails to produce the license, book, or log sheets when requested by a police officer.

F. Destroys, alters, or negligently permits such book, records, or log sheets to be destroyed, damaged, altered, rendered unintelligible, or lost.

G. Fails to require any person to show physical proof of that person's identification.

124.10 DAILY REPORTS TO POLICE CHIEF. Every pawnbroker who purchases or receives from a person any article of jewelry or precious stones; any sheet copper or brass; copper or brass wire; lead (sheet or pipe): zinc (sheet or pipe); Citizens Band radio, car radio, stereo, or electronic accessory; nickel or nickel-plated articles; silver or silver-plated articles; car or railroad brasses; any guns, pistols, or rifles; any motorcycle, bicycle, automobile, or automobile tire, part, or accessory thereto; shall within 24 hours after purchasing or receiving such articles report the same in writing to the Police Chief, stating fully and correctly:

1. The name, driver's license number, and state of issuance, and residence of the person from whom the article was purchased or received;

2. A full and accurate description of each article, including any serial numbers; and

3. The value or amount paid for each article.

124.11 PROHIBITED ACTS. No licensee or any agent or employee purchasing or receiving any article or property shall:

1. Receive any property without first viewing a form of identification containing a photograph of the person identified.

2. Melt, alter, destroy, dismantle, redeem, remove from the licensed premises, or otherwise dispose of such article, without making the report required in Section 124.10, or within 15 days after the receipt and report of any property is made, except upon written permission from the Police Chief. Every bicycle, motorcycle, or automobile purchased or received shall be kept intact for a period of 15 days. All articles must remain within the City at the place of business during the 15-day period provided for herein.

3. Purchase or receive any property from any person under the age of 18 without their parent or guardian being present at the time of the transaction and without receiving their written consent, a copy of which must be submitted along with the records required by Section 124.09.

4. Purchase or receive any property or surrender any property from 6:00 p.m. to 8:00 a.m. Monday through Saturday, and 6:00 p.m. Saturday through 8:00 a.m. Monday.

5. Conceal, secrete, or destroy for the purpose of concealing, any article purchased or received for the purpose of preventing identification.

6. Deface, alter, or remove any serial number or identifying marks from an article in their possession.

7. Take possession of defaced or altered property as described in Subsection 6 above.

8. Sell, dispose of, change in its form, alter, or mutilate in any way any article of jewelry within the time fixed for sale or redemption.

9. Purchase or receive any personal property from any intoxicated person or person who appears to be under the influence of any drug.

10. Sell or otherwise dispose of any article during the time any person has the right to buy back or redeem the article.

124.12 ARTICLES OF CLOTHING. All articles of clothing taken in pawn or purchased outright shall be held in the same condition in which they were received for 15 days following and during this period shall not be cleaned, repaired, dyed, or altered in any manner.

124.13 SEARCHING FOR STOLEN PROPERTY. Whenever any police officer has reason to believe that any pawnbroker has, in their possession or on their premises, any stolen property, the officer shall have the right and duty to enter and search the premises of such person for the purpose of discovering stolen property.

124.14 EXAMINATION OF PREMISES BY OFFICERS. No pawnbroker or any other person shall refuse, resist, or attempt to prevent any police officer, with or without warrant, from examining the premises occupied by the pawnbroker for the purpose of discovering stolen property.

124.15 HOURS OF OPERATION. No pawnbroker or any person shall conduct business on Sunday or at any hour other than between 6:00 a.m. and 6:00 p.m.

124.16 DISPOSING OF STOLEN GOODS OR GOODS FOR WHICH THERE IS AN ADVERSE CLAIM. No pawnbroker shall sell, or permit to be redeemed, or otherwise dispose of any article which they have reason to believe has been stolen, or which is adversely claimed by any person, or which they have been notified not to sell, release, or otherwise dispose of by any police officer without first obtaining written permission to do so from the Police Chief.

124.17 GROUNDS FOR REVOCATION OF LICENSE. The following reasons shall be grounds for the revocation of any license issued under the provisions of this chapter:

1. Fraud. The licensee has made fraudulent or untrue statements in the application for a license.

2. Violation. The licensee has violated any of the provisions of this chapter.

3. Operation. The licensee has conducted the business in such a manner as to endanger the public welfare, health, safety, order, or morals.

124.18 REVOCATION PROCEDURE. When it appears to the Clerk or the Council that grounds for the revocation of a license may exist, the following procedure shall be followed:

1. Investigation. The Council or the Clerk shall direct the Police Chief to make an investigation concerning the alleged grounds for revocation.

2. Report to Council. The Police Chief shall make such investigation and report the findings in writing to the Council.

3. Determination. The Council shall make a determination as to whether probable cause for revocation exists.

4. Hearing. If the Council finds that probable cause for revocation exists, it shall set a date, time, and place for a hearing on the matter and shall direct the City Attorney

to prepare the complaint against the licensee. The complaint shall state the alleged grounds for the revocation and the date, time, and place for a hearing on the matter.

5. Service of Complaint. The complaint shall be served upon the licensee by certified mail, return receipt requested, not less than 10 days prior to the date set for a hearing on the matter.

6. Conduct of Hearing. The Council shall conduct the hearing at which the licensee shall be present. The purpose of the hearing shall be to determine the truth of the facts alleged in the complaint. Should the licensee, or the licensee's authorized representative, fail to appear without good cause, the Council may proceed to a determination on the complaint.

7. Rights of Licensee. The licensee shall have the right to be represented by counsel, to testify and present witnesses in their own behalf, and to cross-examine adverse witnesses.

8. Evidence. The Council shall admit only reliable and substantial evidence into the revocation proceeding and shall give all admitted evidence its natural probative value.

9. Findings. The Council shall make and record findings of fact and conclusions of law and shall revoke a license under this section only when, upon review of the entire record, it finds substantial evidence of a violation of this chapter.

124.19 EFFECT OF REVOCATION. Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of three years from the date of revocation.

124.20 SUMMARY SUSPENSION. The Police Chief may summarily suspend any license issued under this chapter if, after investigation, the Police Chief finds reasonable grounds to believe that the licensee's establishment poses an immediate hazard to the health or safety of the community. Such suspension shall be effective upon the service of a written notice of suspension upon the licensee. Such service may be accomplished by personal service or by certified mail, return receipt requested. The Police Chief shall report such suspension to the Council, and the Council shall forthwith commence revocation proceedings in accordance with the provisions of Section 124.18. Such suspension shall remain effective until the completion of said revocation proceedings.

[The next page is 1091]

CHAPTER 125

ADULT ENTERTAINMENT FACILITIES

125.01 Purpose
125.02 Definitions
125.03 Location of Adult Bookstores, Movie Theaters, Nightclubs, Motels, Adult Businesses
125.04 Adult Magazines and Publications to be Covered
125.05 Enforcement
125.06 Permitted Areas

125.01 PURPOSE. It is recognized that adult entertainment facilities have certain objectionable side effects which render these adult facilities incompatible with residential and family-oriented uses, when the adult facilities are located directly adjacent to such uses. This chapter seeks to ensure that residential or family-oriented uses and adult entertainment facilities will be located in separate and compatible locations. It is a subject of legitimate concern for the City to use its zoning power to preserve the quality of life, preserve the City's neighborhoods, and to meet effectively the increasing encroachments of urbanization upon the quality of life within the City.

125.02 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Adult entertainment facilities" include, but are not limited to, the following:

   A. "Adult bookstore" means an establishment having as the primary portion of its stock in trade, books, magazines, and other periodicals which are substantially devoted to the depiction of specified sexual activities and specified anatomical areas.

   B. "Adult movie theater" means any theater, arcade, or similar establishment where an enclosed building or open-air facility is used for presenting material in the form of motion picture film, video tape, or other similar means which is substantially devoted to the depiction of specified sexual activities and specified anatomical areas for observation by persons therein.

   C. "Adult nightclub" means any club, cabaret, nightclub, bar, restaurant, or similar establishment where an enclosed building or open-air facility is used for live performance which is characterized by the exposure of specified sexual activities and specified anatomical areas for observation by persons therein.

   D. "Adult motel" means a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

   E. "Adult business" means any business or establishment where a specified sexual activity or a specified anatomical area is displayed.

2. "Specified anatomical areas" means:

A. Less than completely and opaquely covered:

(1) Human genitals;

(2) Human buttocks;

(3) Human female breast below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

3. "Specified sexual activities" means:

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse, or sodomy;

C. Fondling or other touching of human genitals, pubic region, buttock, or female breast; and

D. Minors engaged in a prohibited sexual act or simulation of a prohibited sexual act.

125.03 LOCATION OF ADULT BOOKSTORES, MOVIE THEATERS, NIGHTCLUBS, MOTELS, ADULT BUSINESSES.

1. Locations. No person, whether as principal or agent, clerk, or employee, either for such person or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any adult bookstore, adult movie theater, adult nightclub, adult motel, or adult business in the following locations.

A. In any residential area in the City, including upon any sidewalk abutting upon such residential area;

B. Within 2,000 feet of any residentially zoned or used property, or any property designated on the City's Comprehensive Plan as residentially oriented.

C. Within 2,000 feet of any parcel of real property upon which is located any of the following facilities:

(1) An elementary school, junior high school, or senior high school;

(2) A church which conducts religious programs;

(3) Park or recreational facilities operated and approved by the City, County, the County Conservation Board, the State, or a not-for-profit institution;

(4) Federal, State, County, City, or special district governmental offices;

(5) Supermarket or convenience market primarily engaged in the sale of food; or

(6) Restaurant, fast-food, or food establishment catering to family trade.

D. Within 2,000 feet of any other adult entertainment facility, as defined in Section 125.02.

2. Measurement of Distance. The distance between any two adult entertainment facilities shall be measured in a straight line, without regard to intervening structures from the closest exterior structural wall of each business. The distance between any adult entertainment facilities and any religious institution, school, or public park, government office, supermarket, restaurant, or any property designated for residential use or used for residential purposes shall be measured in a straight line without regard to intervening structures, from the closest property line of the adult entertainment facilities to the closest property line of the religious institution, school, public park, government office, supermarket, restaurant, or the property designated for residential use or used for residential purposes.

3. Viewing Area.

A. It is unlawful to maintain, operate or manage, or permit to be maintained, operated, or managed any adult theater or arcade in which the viewing areas are not visible from a continuous main aisle or are obscured by a curtain, door, wall, or other enclosure. For purposes of this section, "viewing area" means the area where a patron or customer would ordinarily be positioned while watching the performance, picture, show, or film.

B. It is unlawful for more than one person at a time to occupy any individually partitioned viewing area or booth.

C. It is unlawful to create, maintain, or permit to be maintained any holes or other openings between any two booths or individual viewing areas for the purpose of providing viewing or physical access between the booth or individual viewing area.

D. The opening to the viewing area shall be from the main aisle.

125.04 ADULT MAGAZINES AND PUBLICATIONS TO BE COVERED. The display of adult magazines and publications in a public place, other than a public place from which minors are excluded, is prohibited unless a device commonly known as a blinder rack is placed in front of such material, so that the lower two-thirds of the material is not exposed to view. As used herein, "public place" includes grocery stores, convenience stores, drug stores, supermarkets, and other retail establishments unless minors are excluded therefrom by law.

125.05 ENFORCEMENT. In case any building, structure, or sign is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building structure, sign, or land is used in violation of this chapter, the City Attorney, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct business, or use in or about the premises.

125.06 PERMITTED AREAS. The areas in the City in which adult entertainment facilities are permitted are defined in Section 125.03.

[The next page is 1111]

CHAPTER 127

MOBILE FOOD UNITS

127.01 Definitions
127.02 License and Permit Required
127.03 Application
127.04 Exceptions
127.05 General Regulations for all Mobile Food Units
127.06 Reserved
127.07 Reserved
127.08 Enforcement Penalties

127.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Commissary" means a licensed food facility regulated by a governmental entity where food is stored, prepared, portioned, packaged, or any combination thereof, and where such food is intended for consumption at another location or place from a mobile food unit.

2. "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. For the purposes of this chapter, "food establishment" does not include an establishment that offers only pre-packaged foods that are non-potentially hazardous; a produce stand which sells only whole, uncut fresh fruits and vegetables; an establishment operating in a farmers market if potentially hazardous food is not sold or distributed; a residence in which food that is non-potentially hazardous is sold for consumption off-premises to a consumer customer provided the food is labeled so as to identify its preparer; a private home that receives catered or home-delivered food; child care facilities or food establishments in hospitals or health care facilities which are subject to regulation by State agencies; supply vehicles and vending machines.

3. "Mobile food unit" means motorized, a self-propelled food establishment food truck, or a trailer, pushcart, or vehicle towed by a motorized vehicle, that is readily movable including a tent, and which typically operates at a remote location and returns to base of operation or commissary at the end of its daily business. Mobile food units are considered Class III or Class IV Mobile Food Units by the Iowa Department of Inspections and Appeals.

4. "Mobile Food Unit License" means a City issued license necessary for all mobile food units operating in City limits, unless the mobile food unit is operating on private property as part of a private event under Section 127.04.

5. "Potentially hazardous food" means a biological (microorganism), chemical (cleansers, pesticides), or physical (fingernail, plastic) property that may cause an unacceptable consumer health risk.

6. "Pushcart" means a non-motorized food establishment limited to serving non-potentially hazardous packaged foods with limited assembly or commercial or commissary prepared foods that are reheated on the pushcart, such as frankfurters. Pushcarts may be towed by a vehicle but are generally capable of being moved by human power. Pushcarts are considered Class III Mobile Food Units by the Iowa Department of Inspections and Appeals.

7. "Special Event Permit" means a permit necessary for all mobile food units operating in the City right-of-way or in a City Park. The permit is valid for a specified

period of time and at a specified location. This permit does not supersede the need for a Mobile Food Unit License.

127.02 LICENSE AND PERMIT REQUIRED. No person shall sell, or offer for sale, or otherwise engage in a business as a mobile food unit within the City without having first obtained a license to operate as such. A Mobile Food Unit License is a special license and is required in addition to any other required City business license or State license or permit the person may hold or be required to hold. A separate Mobile Food Unit License is required for each mobile food vehicle from which business is conducted in the City. Mobile Food Unit Licenses are not transferable or assignable. The license fee required shall be established by the Council by resolution. Licenses expire 365 days after license issuance. No person shall sell, or offer for sale, or otherwise engage in business as a mobile food unit within the public right-of-way or in a City park unless otherwise approved by the City Administrator, or their designee, by a Special Event Permit. The granting of a Special Event Permit is discretionary based on available space and event requirements. A Special Event fee may be charged by the City or the event host.

127.03 APPLICATION. A Mobile Food License application form available from the Building and Zoning Department must be filled out and submitted to the Clerk for processing. The completed application must be submitted together with a copy of the applicant's State Retail Sales Tax Permit and proof of liability insurance, including commercial general liability insurance coverage and automotive liability insurance coverage. Commercial general liability insurance shall include coverage for bodily injury, death, and property damage with limits of liability of not less than $1,000,000.00 per occurrence and aggregate combined single limit. Automobile liability insurance coverage shall include coverage for bodily injury, death, and property damage with limits of liability of not less than $1,000,000.00 per occurrence, combined single limit. Certificates of Insurance shall provide that the policy or policies have been endorsed to provide 30 days advance notice of cancellation and 45 days advance notice of non-renewal and 10 days advance notice of cancellation for non-payment of premium and that these notices shall be provided to the City finance department by email, facsimile, or mail. Cancellation of required insurance automatically revokes and terminates the Mobile Food Unit License to operate in the City unless other insurance policies are provided in a timely manner to the City. If the mobile food unit sells food or beverages other than pre-packaged items that do not require hot or cold handling procedures, the application shall also contain a copy of the Mobile Food Unit's License issued by the Iowa Department of Inspections and Appeals, a copy of the food establishment license issued by the Iowa Department of Inspections and Appeals for any commissary kitchen or other premises where food is prepared, copies of the food protection manager certifications, the name and address of the facility at which any waste fat, waste oil, or waste grease generated by the mobile food unit operation is disposed of, and a copy of the Certificate of Annual Compliance issued by the Fire Marshal of Des Moines, Clive, Ankeny, Urbandale, Norwalk, Grimes, Altoona, Pleasant Hill, Johnston, Waukee, or West Des Moines.

127.04 EXCEPTIONS.

1. Mobile food units associated with a private party on private property hosted by the owner of the property upon which the unit is dispensing food or beverage, such as a graduation party, wedding reception, birthday celebration, or similar event, are exempt from the licensing provisions of this chapter provided the unit's participation is by invitation or contract with the host and provided the vendor displays proof of its authorization to operate in the State and required health inspection certification.

127.05 GENERAL REGULATIONS FOR ALL MOBILE FOOD UNITS.

1. Mobile food units shall have, and at all times maintain, all necessary licenses and permits from the Iowa Department of Inspections and Appeals as well as the City required permits and licenses.

2. Mobile food units shall at all times operate in compliance with all applicable food, health, and sanitation laws and shall comply with all health department regulations regarding food service, food storage and preparation, food handling and food cooking, and shall have a valid inspection certificate or permit evidencing health department inspection and approval on display and easily visible to the mobile food unit's patrons at all times in operation.

3. No mobile food unit shall offer for sale or sell food or beverage between the hours of 12:00 a.m. and 6:00 a.m.

4. No mobile food unit may operate in the right-of-way absent of a receipt of a Special Event Permit from City Administration, or their designee.

5. No mobile food unit shall operate within a City park absent receipt of a Special Event Permit from City Administration, or their designee.

6. No mobile food unit shall park or stand within:

   A. Forty feet of a pedestrian crosswalk, or a stop sign, or traffic signal light;

   B. Adjacent to a designated bicycle lane; or

   C. Absent written authorization of the restaurant, within 200 feet of any public entrance to any permanent restaurant during hours the restaurant is open for business.

For purposes of this section, bars that serve food are deemed to be restaurants. Mobile food units that are not directly involved with the sponsor organization shall not park or stand within 1,200 feet (three City blocks) of an approved special event.

7. No mobile food unit shall operate in a manner that violates Chapter 54 concerning noise. A mobile food unit owner or operator shall not call out to, cry out, shout out, or otherwise communicate or make any noise or use any device to call attention to their cart's location and operation.

8. A mobile food unit owner or operator is responsible for keeping and maintaining the area around and within 50 feet of the mobile food unit neat, clean, and free from trash, debris, garbage, and other hazardous conditions at all times regardless of whether the trash, debris, or garbage originated from the operation of the unit or was left in the area by a pedestrian passerby or natural conditions. A mobile food unit owner or operator shall provide adequate trash receptacles for the public for all garbage from its operation and from the accumulation of garbage in the area around their unit all times the unit is in operation. At the close of its daily business, the mobile food unit owner or operator must remove all garbage from the area and properly dispose of it away from the site of its operation; the garbage shall not simply be placed in nearby public garbage receptacles provided for use to the general public at large.

9. The license required by this chapter, the State Sales Tax Permit, and all licenses, permits, or certificates required to be displayed by State law, shall be posted on the mobile food unit so as to be readily visible to all persons conducting business with the mobile food unit.

10. Mobile food units shall only offer single service food utensils such as cups, straws, knives, forks, spoons, stirrers, plates, bowls, wrappers, containers, and similar utensils, which shall be individually wrapped, if usual, and kept in a clean place and only used once in the service of food or beverage.

11. No mobile food unit shall be left at its operating location at the end of its business day, unless it is operating as part of a multi-day special event and has approval from the City Administrator.

12. No mobile food unit shall conduct operations at a location or in a manner that hinders, impedes, or restricts access to a pay phone, mailbox, emergency call box, traffic control box, fire hydrant, entrance to a building, or a driveway.

13. A mobile food unit operating on private property shall not encroach into any public sidewalk or public right-of-way. The window or area where a patron orders and receives their purchase shall be located so as to not require a patron to stand, or create a line that may cause pedestrians to be in the public right-of-way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Sales shall be conducted on the sidewalk or pathway side of the mobile food unit wherever possible, away from moving vehicles. All private property owners allowing mobile food units on property must maintain a food service license issued by the Iowa Department of Inspections and Appeals and Certificate of Insurance.

14. No mobile food unit is allowed on the grounds of any school unless it has been invited to be there as part of a school authorized function.

15. The City reserves the right to move a mobile food unit from any location if determined to be necessary for the provision of emergencies or public services or in the interest of public safety, peace, and welfare.

16. No mobile food unit shall offer for sale or sell any liquor, beer or wine from such unit unless a liquor license has been approved by the Iowa Alcoholic Beverage Division.

17. No mobile food truck should provide or allow any dining area, tables, chairs, booths, benches, bar stools, stand-up counters, or similar furniture unless allowed by a private lease on private property.

18. No mobile food unit shall be used for any purpose other than as a mobile food unit offering food or beverage to customers.

19. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.

20. The mobile food unit must be located on a paved or rocked surface, unless approved as part of an event permit.

127.06 RESERVED.

127.07 RESERVED.

127.08 ENFORCEMENT PENALTIES. The County Health Department, the Police Department, the Fire Department, and the Building and Zoning Department of the City are authorized to enforce this chapter. The County Health Department may elect to pursue enforcement under the provision of this chapter or under applicable State laws and regulations with the sanctions available thereunder. The performance of any action contrary to the

provisions of this chapter may be cited as a municipal infraction offense. Additionally, failure to adhere to the regulations is cause for revocation or suspension of a license to operate as a mobile food unit. Any license issued under the provisions of this chapter may be suspended or revoked by the City as follows:

1. The vendor has violated this chapter or any other chapter of this Code or has otherwise conducted their business in an unlawful manner.

2. The vendor has conducted their business in such manner as to endanger the public welfare, safety, order, or morals.

3. The City has received and investigated three or more found complaints during the license term related to the manner in which the vendor is conducting business.

4. Emergency Revocation. The Police or Fire Chief may suspend or revoke any license or permit immediately, upon oral notification to the operator of the mobile food unit, in the event the mobile food unit is creating a danger to the public health or safety. In such event, the vendor shall immediately cease operations. The Police or Fire Chief will cause the notice of revocation to be served in person by a City official or by mail to the vendor's local address within 24 hours.

5. Notice of Suspension or Revocation; Right to Appeal. The Police or Fire Chief shall cause notice of the certificate revocation to be served in person by a City official or by mail to the vendor's local address, which notice shall specify the reasons for such action, at which time operations of the vendor must cease within the corporate limits of the City. The vendor may appeal the revocation of the certificate to the Council at its next regularly scheduled meeting by filing with the Clerk a written request for an appeal to the Council at least seven days prior to the meeting. The Council may affirm, modify, or reverse the decision of the Police or Fire Chief to revoke such certificate. If a certificate is revoked, no refund of any license fee paid shall be made. Upon the revocation, the vendor is not eligible for the issuance of a new permit under this chapter for a period of one year from the date the permit revocation is served in person or deposited in the U.S. mail.

[The next page is 1181]

CHAPTER 135

EXCAVATION OF PUBLIC PROPERTY

135.01 Definitions
135.02 Reservations
135.03 Permits, Fee, Inspection, and Requirements
135.04 Utility Map, Plan, and Specification
135.05 Conditions, Construction, and Repair
135.06 Restoration
135.07 Emergencies
135.08 Work By Others
135.09 Utility Business Contractors
135.10 Powers of the City
135.11 Violations
135.12 Liability, Indemnification, and Insurance

135.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Applicant" means any person making written application to the Clerk for an Excavation Permit under this chapter.

2. "Excavation work" means the excavation and other work permitted under an Excavation Permit and required to be performed under this chapter.

3. "Licensee" means a company providing utility services by wire, or through conduit, pipe, or similar structure, device, or apparatus, and all equipment owned, operated, leased, or subleased in connection with the operation of the utility business, and shall include, but is not limited to, poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, and other structures or appurtenances.

4. "Permittee" means any person who has been granted and has in full force and effect an Excavation Permit issued under this chapter.

5. "Public improvements" means any improvements on public property, including, but not limited to, paving, sidewalks, grass, vegetation, trees, streetlights, traffic signals, water mains, sewers, electric transmission lines, and equipment related thereto.

6. "Public property" means City owned property or City controlled easements.

7. "Public rights-of-way" means the area on, below, or above a public roadway, highway, street, bridge, cart-way, bicycle lane, or public sidewalk in which the local government has an interest, including other dedicated rights-of-way for travel purposes and public easements. A public right-of-way does not include the airwaves above a public right-of-way with regard to cellular or other non-wire telecommunications or broadcast services.

8. "Street" means any street, highway, sidewalk, alley, avenue, or other public right-of-way or public grounds in the City.

135.02 RESERVATIONS. A licensee or permittee shall construct, maintain, inspect, protect, repair, replace, retain a system in, under, upon, along, and across the public rights-of-way or public property, subject to the federal, State, and City regulatory powers, and subject to the conditions hereinafter set forth.

135.03 PERMITS, FEE, INSPECTION, AND REQUIREMENTS.

1. No person shall make any excavation or fill any excavation in any City street, avenue, alley, sidewalk, public right-of-way, and other similar property dedicated to public use without first obtaining a permit from the City. The application for a permit

shall be in writing and completed by the applicant or their agent. A permit shall not be required for a single commercial or residential service connection within a public right-of-way for a franchise licensee. However, a permit shall be required if such connection requires a street cut, curb, or sidewalk. A permit shall not be required for a single pole or single transformer change out, or a single streetlight change out.

2. After the City reviews, approves, and issues a permit, the permittee shall provide the City with 48 hours' notice, excluding Saturdays, Sundays, and legal holidays, prior to the actual commencement of the work; shall not unnecessarily obstruct the use of streets, avenues, alleys, or public places; shall not endanger the safety of workers or passerby; shall prevent traffic backup during construction; and shall comply with all provisions, requirements, and regulations in performing such work. An applicant's installation shall not interfere with the reasonable and proper use, construction, reconstruction, and maintenance of any public improvements or any existing or future public utility system component, or other structure upon or under public property.

3. The licensee or applicant shall submit its permit application and maps, plans, or specifications for a proposed utility plan, and other notices as may be appropriate, to the following City office for the initial permit review, permit findings (approval, denial, resubmission), fee assessment, and other activities as may be appropriate:

Public Works Director
City of Windsor Heights
6800 School Street
Windsor Heights, IA 50324
Phone: (515) 279-3662

4. The licensee or applicant shall pay the City the following rates:

A. A per permit fee, as set by resolution as approved by the Council, for the review of the applications and proposed plans and specifications, is due at the time the permit application is submitted. Franchise licensees will only be required to pay if a hard surface is being cut such as a curb, street, or sidewalk.

B. An hourly rate for any inspection services will be required in connection with the applicants' work, including, but not limited to, the personnel cost of an inspector's salary and benefits, vehicle and mileage, administrative overhead, with payment due within 30 days of the City's submittal of an invoice to the applicant.

5. The applicants' permit will show the exact location of the work including street or house number and the direction and length the trench will run.

6. If the applicant plans to do extensive digging, a blanket permit may be issued, however, the party performing the work must notify all other utilities concerned as to the location and time that work will take place so that the others may locate their property.

7. The applicant shall post with the City a surety bond in the amount of $10,000.00 or one and a half times the estimated cost of the excavation and restoration, whichever is greater, issued by a surety company authorized to issue such bonds in the State before excavating or opening any public street, sidewalk, ditch, alley, or public right-of-way. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of

administration of this section. In lieu of a surety bond, a cash deposit of $10,000.00, or one and a half times the estimated cost of the excavation and restoration, whichever is greater, may be deposited with the City. Duration of the bond or cash deposit shall be for a period of one year commencing with the completion of the excavation and restoration. Upon approved completion of the excavation, the cash deposit may be substituted for a one-year maintenance bond and upon satisfactory completion of a one year period, the City shall release any and all bonds and deposit requirements.

8. The applicant shall 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 - $1,000,000.00 per person; $1,000,000.00 per accident.

B. Property Damage - $2,000,000.00 per accident.

9. All work shall be subject to inspection by the City. Backfill of openings shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder or property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

10. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours, or in the event the work is improperly done, the City has the right to finish or correct the excavation work, keep an account of the expense thereof, and charge such expenses to the permit holder or property owner. Thereafter, after completion of the work and the invoicing of the costs thereof, the City shall issue no further or new permits to the permit holder or property owner until it receives full payment for all outstanding amounts owed.

11. All work by permittee shall be performed in accordance with the current standard specifications adopted by the City at the time. Any damaged curb, gutter, sidewalk, or grass covered area shall be restored to the same or better condition prior to damage.

12. All costs and expenses incident to the excavation shall be borne by the permit holder or property owner. The permittee and owner shall indemnify the City from any loss or damage that may, directly or indirectly, be occasioned by such excavation. The applicant will fill up and place in good and safe condition all excavations and openings made in the street and will replace and restore the pavement over any opening they may make to the same or better condition than it was prior to excavation to the satisfaction of the Public Works Director for a period of one year.

13. The applicant will pay all fines or forfeitures imposed upon them for any violation of any rule, regulation, or ordinance governing street openings or drain laying adopted by the Council and will repair any damage done to existing improvements during progress of the excavation in accordance with the ordinances, rules, and regulations of the City. Such bond shall also guarantee that, if the City shall elect to make the street repair, the applicant opening the street will pay all costs of making such repair and of maintaining the same for one year, recovery on such bond for any accident, injury, violation of law, ordinance, rule, or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries, or violation of law during the period of excavation for which it is given.

14. Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies in a timely manner shall result in a minimum one-year revocation of the right to obtain a street opening permit. The Public Works Director shall repair the deficiencies and bill the permittee for all labor, materials, and equipment used plus administration costs.

15. The permittee who does such restoration shall be responsible therefore for one year from the date of the completion of the work and shall file a written guarantee from a banking institution or surety bond to that effect with the City.

16. If the Council shall find that any such work has become defective within one year of the date of completion of the said project, it shall give written notice thereof to the applicant or to their surety stating the defect, the work to be done, the cost thereof, and the period of time deemed by the Council to be reasonably necessary to complete said work. After receipt of such notice, the applicant or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.

17. All excavation and restoration shall be completed in a prompt manner as determined by the Public Works Director.

135.04 UTILITY MAP, PLAN, AND SPECIFICATION.

1. Before commencing any extension or expansion of its utility system, or any major repair work, or the installation of any new system in the City's public rights-of-way or public property, the applicant shall file with the City a written statement verifying the public rights-of-way or public property under which or upon which it proposes to extend, expand, install, or repair its system. The City shall require that the statement be accompanied by a map, plan, or specifications showing the proposed location of the system components with reference to streets and alleys, the size and dimensions of all public utilities, and the distance beneath the surface of the ground.

2. All existing public utilities must be shown on the map, plan, or specifications. If the proposed locations of any facilities shall interfere with the reasonable and proper use, construction, reconstruction, and maintenance of any public improvements or any existing or future public utility system component, or other structure upon or under public property, the City shall, within a reasonable time after the filing of such plan, map, or specifications, note the changes necessary, eliminate all interference with a public improvement or existing City owned public utility system facility and refer the same back to the utility business for amendment.

3. Maps, plans, or specifications, when properly changed and corrected, shall be filed with the City and, after the approval of the same by the City, a permit shall be issued authorizing utility business to proceed in accordance with the approved maps, plans, or specifications.

4. No such excavation, construction, or erection shall be commenced before the issuance of the permit herein provided for, unless it is an emergency as described in section 135.07, and all work shall be in accordance with the approved maps, plans, or specifications, or work being performed by a licensed franchise not requiring a permit.

135.05 CONDITIONS, CONSTRUCTION, AND REPAIR.

1. In the process of location, construction, reconstruction, replacement, or repair of any system component, the excavation or obstruction made or placed in public property at any time or for any purpose by the utility business or permittee shall, protect the public and to assure the safe and efficient movement of traffic, be properly barricaded to comply, at a minimum, with requirements set forth in the *Uniform Manual for Traffic Control*. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Public Works Director, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet from where pipe or conduit has been laid. All pavement removed or damaged shall be properly and speedily replaced in accordance with the City's specifications, which may be obtained at the Public Works Department.

2. Upon request, a licensee agrees to assist in locating underground facilities which are part of its system prior to excavation. As a condition of this chapter, a licensee shall enroll as a member of the "Iowa One-Call System" and shall respond to all requests and notifications placed to the toll free "One-Call" number.

3. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of work. Each permittee making such openings shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or their employees of any necessary precaution against injury or damage to persons, vehicles, or property of any kind.

4. Unless otherwise approved, a minimum of one lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to their project. In the event traffic is limited to less than one lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area and the City must be notified regarding the dates and times applicable.

5. Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of the permittee's work and in accordance with all applicable codes and regulations.

6. If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Public Works Director, or their designee, shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

7. Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

8. The Public Works Director, or their designee, may order the permittee to remove and replace up to one full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to ensure a full depth of concrete at the joint.

9. All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed. As little as possible of the trench must be dug until the slant of junction-piece of the sewer, water, gas main, electric cables, telephone lines, or fuel line is found. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the City shall have the authority to require the permittee to haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling.

10. All conduits, sewers, pipes, wires, or other means of transmission of utility services within the City, if to be placed underground, shall, in addition to all of the requirements of this section, be dug at least 30 inches below the normal ground level whenever said utility service will cross under a highway, City street, sidewalk, alley, or other public right-of-way within the City.

11. Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

12. All backfill material shall be free from cinders, hot mix fragments, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight inches in their greatest dimension, frozen lumps, or other material which, in the opinion of the Public Works Director, or their designee, is unsuitable. All non-compactable material will be placed upon excavation, in an area where removal from site will be made readily possible.

13. In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Public Works Director, or their designee, hauled in, or refilled by the City.

14. Wherever an excavation crosses an existing utility, pipe, or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas, or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.

15. Mechanical compaction or puddling shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted. Compaction or consolidation by flooding shall not be permitted. Earth must be puddled or laid in layers not more than 12 inches in depth and each layer rammed and tamped to prevent settling. The Public Works Department will test the fill to meet the City's specifications. Contractors will be instructed by the City's inspector, if they meet the specifications, to proceed to fill the opening.

16. All excavations shall be subject to testing by the City. Backfilled material not achieving the above compaction requirements shall be removed and re-compacted by the permittee. The cost of any retesting shall be paid by the permittee.

17. When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing, or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation. When caving occurs, all the street support thus disturbed must be restored to the same or better condition as though it was an excavation or a trench.

18. Concrete pavement shall be placed to the full depth of the existing pavement or seven inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three days. Tie bars shall be installed as directed by the Public Works Director, or their designee.

19. All permanent restoration of street, curb, and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.

20. All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the City Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.

135.06 RESTORATION.

1. As a condition of the permit, the permittee shall at its own expense, repair or cause repair to any private property, public utility system component, public improvement, vegetation, public rights-of-way, or public property damaged by such location, construction, reconstruction, replacement, or repair work, to the same or better condition than it was prior to the excavation.

2. The permittee shall restore with sod (unless seed is approved by the City) all such property to its previous condition, at its expense. If multiple utilities are involved in the restoration, the City Engineer or Public Works Director shall assess the restoration cost equally or proportionately to the parties involved.

3. If the permittee fails to repair or arrange with the City for the proper repair of any public property after excavations or damage to the surface has been made, and after 30 days' notice in writing to do so given to its designated representative, then the City may make such repairs at the expense of the permittee. The City shall keep an account of all such expenses and invoice the permittee for the same. Thereafter, after completion of the work and the invoicing of the costs thereof, the City shall issue no further or new permits to the permit holder or property owner until it receives full payment for all outstanding amounts owed.

135.07 EMERGENCIES.

1. In the event of any emergency, the permittee shall remove or relocate its installations within 48 hours of notification from the City.

2. In emergencies which require immediate excavation to remedy dangerous conditions for the protection of property, life, health, or safety, a licensee may proceed with the work without first applying for or obtaining the permit, provided, however, that the utility business shall apply for and obtain the permit within 48 hours after commencing such emergency work.

135.08 WORK BY OTHERS.

1. The City reserves the right to lay, and permit to be laid, wires, pipes, cables, conduits, ducts, manholes, and other appurtenances, and to do, or permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in, across, along, over, or under any public property occupied by utility business, and to change any curb or sidewalk or the grade of any street.

2. In permitting others to do such work, the City shall not be liable to utility business for any damages arising out of the performance of such work by other parties, except those arising out of or resulting from negligence of the City.

3. Nothing in this chapter shall be construed as to relieve any other person or corporation from liability for damage to utility business' facilities.

135.09 UTILITY BUSINESS CONTRACTORS. The requirements of this chapter shall apply to all persons, firms, or corporations performing work for a utility business under a contract, subcontract, or other type of work order.

135.10 POWERS OF THE CITY. Nothing in this chapter shall be construed to abridge the right or power of the City to make further regulations relative to the use of the streets, alleys, and public grounds by anyone using the same for the erection and maintenance of utility systems.

135.11 VIOLATIONS.

1. Upon evidence being received or observed by the City that a violation or breach of this chapter or codes lawfully regulating utility business in the operation of its facilities, or in the use of public property, therefore, is occurring, or has occurred, the City shall cause an investigation to be made.

2. If the City finds that a violation exists or has occurred, the City may take appropriate steps to secure compliance with the terms of this chapter.

3. The City shall notify the utility business or permittee of the violation, and the utility business or permittee shall cure such violation within 30 days after receipt of such notice.

4. If a permittee fails to cure a violation within the time allowed, the City shall have the right to:

A. Revoke the permit;

B. Seek specific performance;

C. Seek damages for such default; or

D. Any combination of Subsections (4)(A) and (4)(C) above.

135.11 LIABILITY, INDEMNIFICATION, AND INSURANCE. The permittee covenants to indemnify, defend, and save the City and its officers, agents, and employees, harmless from any and all damages arising directly from the exercise of the rights granted herein, except those arising out of or resulting from negligence of the City. The permittee agrees to require contractors and subcontractors engaged in work for the permittee within the public rights-of-way or on public property to maintain in effect during the term of work liability insurance in comprehensive form and in the amounts to be set by the City.

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[The next page is 1195]

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice, and Accumulations
136.04 Property Owner's Responsibility for Maintenance
136.05 City's Economic Responsibility
136.06 Sidewalk Inspection
136.07 City Shall Order Repairs
136.08 Notice of Inability to Repair or Barricade
136.09 Sidewalk Grant Program
136.10 Sidewalk Construction Ordered
136.11 Standard Sidewalk Specifications
136.12 Permits for Construction or Repair
136.13 Failure to Obtain Permit; Remedies
136.14 Inspection and Approval
136.15 Barricades and Warning Lights
136.16 Interference with Sidewalk Improvements
136.17 Determining Location of New Sidewalks
136.18 Encroaching Steps
136.19 Openings and Enclosures
136.20 Fires or Fuel on Sidewalks
136.21 Defacing
136.22 Debris on Sidewalks
136.23 Vegetation Overgrowth on Sidewalk
136.24 Merchandise Display
136.25 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to promote the health, safety, and general welfare of the City, and to ensure compliance with the following goals in accordance with the City's Complete Street Policy passed on July 6, 2015:

1. Promoting the safety of pedestrian access, movement, and protection for the physically able, physically challenged, children, or seniors (or variously abled) within the community.

2. Ensuring that the ADA guidelines are met for all sidewalk or pathway installations, existing and proposed.

3. Promoting attractive and well-constructed sidewalks or pathways that correspond to the character, aesthetic qualities, natural, environmental, and historical features of developing or existing neighborhoods.

4. Connecting to existing and projected sidewalks or pathways whenever the opportunity arises to insure an interconnected pedestrian system.

5. Ensuring that all development actively implements the building of sidewalks or pathways for new construction, reconstruction, or rehabilitation.

136.02 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Bicycle recreational trail" means a PCC (Portland Cement Concrete), blacktop, or gravel bicycle or recreational route developed primarily for outdoor recreational purposes. Trails are largely designed for pedestrians and other users to "experience" the outdoors and may be used by a variety of users, but they are not primarily designed for transportation purposes. Bicycle trails within the City should be constructed at a minimum of 10 feet in width with a preferred width of 12 feet whenever possible.

2. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

3. "Crosswalk" means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing. If there is no marking, a sidewalk crossing is implied at each leg of every intersection by the extension of the lateral lines of the sidewalk on each side, or where the sidewalk would be if there is none.

4. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:

A. Sidewalk faulted at joint or crack with one inch or more deflection or gap;

B. Sidewalk raised more than two inches in eight feet from normal profile line of sidewalk;

C. Sidewalk sunken more than two inches in eight feet from normal profile line of sidewalk;

D. Sidewalk cracked into three or more pieces per panel, or any single crack with half inch or greater openings;

E. Sidewalk cross slope is incorrect, greater than half inch in one foot; within the margin of error;

F. Sidewalk cracked or spalled (small crater line holes deeper than three-eighths inch with part of sidewalk missing, forming holes deeper than three-eighths inch; or

G. Sidewalk missing panels.

5. "Established grade" means that grade established by the City in applicable permits for the particular area in which a sidewalk is to be constructed.

6. "Mature tree" means any tree with a diameter at breast height of 10 inches or greater.

7. "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.

8. "Pedestrian friendly" or "walkability" means the presence of facilities and design features that make an environment safe and attractive to pedestrians. These include:

A. Walkable distances between uses, (i.e. under one-quarter mile).

B. Sidewalks, paths, and walkways.

C. Continuous visual interest (i.e. uninterrupted line of buildings, attractive barrier in front of parking lots, murals on blank walls, infill development, pocket parks, etc.).

D. Consumer uses (i.e. restaurants, shops, cinemas, housing).

E. Trees for shade.

F. Awnings for shelter;

G. Buildings and landscaping elements sited to avoid wind tunnel effect, and to provide sheltered areas.

H. Visual texture in the streetscape (i.e. interesting storefronts, public art, plantings, pavement patterns, etc.).

I. People presence (i.e. sidewalk cafes, street vendors, late business hours, residents using front porches, and yards).

J. Good maintenance and inclusion of site amenities.

K. Buffers between cars and pedestrians (i.e. planted medians, on-street parking, grade separation),

L. Paths connecting adjacent uses,

M. Crosswalks and ramps,

N. Traffic calming devices,

O. Traffic lights.

9. "Portland cement" means any type of cement except bituminous cement.

10. "Shared-use path" means a paved pathway, typically from eight to 12 feet in width, physically separated from motorized vehicular traffic within the roadway right-of-way or within an easement adjacent to the roadway right-of-way. Primarily used by pedestrians and bicyclists, shared use paths are also used by joggers, skaters, and wheelchair users (both nonmotorized and motorized). A shared use path's primary purpose is to provide pedestrians with connections to trails, other neighborhoods, shopping centers, businesses, and other venues of interest. In addition, the shared use path may be used for recreational purposes.

11. "Sidewalk" means all permanent public walks in business, residential, or suburban areas. Sidewalks should be a minimum of four feet (five feet recommended) in residential areas.

12. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk 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. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours following the conclusion of the weather event, the Public Works Director, or their designee, will provide a 24-hour notice in the door. Following the 24-hour notice, the Public Works Director may have the natural accumulations of snow or ice removed and shall give the Council an itemized and verified statement of the costs and a legal description of the property. The costs shall be assessed against the property as taxes. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk. Under extreme weather conditions, the Public Works Director may provide additional time for abutting property owners to removes snow, ice, and accumulations from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken or defective sidewalks and maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes; provided, however, that this section shall not be construed to require a property owner to take any action with respect to a public sidewalk or shared use path when said action is made necessary by the excavation or other activity of the City or a public utility. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY'S ECONOMIC RESPONSIBILITY. In situations where ADA ramps are required at intersections, the portion of the cost associated with the ramp is the economic responsibility of the City. If a property owner replaces a sidewalk panel deemed defective by the Public Works Director due, in part, to a tree in the right-of-way, the City shall reimburse the property owner a predetermined per panel dollar amount reflecting approximately 50 percent of a panel replacement cost.

136.06 SIDEWALK INSPECTION. The City will be responsible for inspecting the public sidewalks on a five-year cycle within the City. These inspections shall be made to determine if any of the public sidewalks within a particular zone of the City are defective as defined. The City will be divided into five zones by the Public Works Director. When a sidewalk defect is found to exist outside of the annual inspection zone, the City will initiate appropriate action as directed by this policy to have the sidewalk reconstructed. The annual inspections will occur on the following general timeline:

1. February. Designated zone sidewalk inspections completed.

2. March. Notifications of defective sidewalk mailed to property owners and initiation of 75-day timeframe to complete repairs.

3. July. Deadline for property owners to complete sidewalk repair. Thereafter, the City shall coordinate and schedule uncompleted repairs and assess the property owner the cost of the repair in the manner outlined in Section 136.07.

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

If, through complaint and voluntary inspection or otherwise, it comes to the attention of a City inspector that an owner of property abutting a sidewalk is not complying with the maintenance requirements imposed above, then the Public Works Director, or their designee, may cause to be served upon the property owner, by certified mail at the property owner's last known address as shown by the records of the County Auditor, notice of the sidewalk defect and of the requirement to cure said defect or reconstruct the defective sidewalk or a portion thereof within 75 days from the date of said notice.

136.07 CITY SHALL ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Public Works Director, or their designee, shall serve notice on such owner, by certified mail, requiring the owner to repair, replace, or reconstruct sidewalks within 75 days from the date the notice is mailed. If, upon expiration of the 75 days as provided in said notice, the required work has not been done or is not in the process of completion, the Public Works Director shall require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax. No such assessment shall be made for the repair, reconstruction, or replacement of a public sidewalk unless the City has served upon the person shown by the records of the County Recorder to be the owner of the abutting property, by certified mail, a notice requiring said person to repair, reconstruct, or replace the public sidewalk within 75 days from the date said notice is mailed. All sidewalk improvements shall be performed under the supervision and inspection of a designated City employee. If work has not commenced following the 75-day notice, the sidewalk will be placed on a list for repair and the City's contractor notified to proceed with the repairs. Upon completion of the repair, the property owner will be sent by regular mail an invoice of the actual cost of the repair with no administration fee. The property owner will have 30 days to pay the invoice. If the invoice is not paid within 30 days, the amount will be certified to the County Auditor to be added to the owner's property taxes. Any unpaid costs for said repairs over $500.00 will be assessed and collected in the same manner as property taxes. There shall be returned to the Council an itemized assessment schedule, verifying expenditures used in doing such work, and the legal

description of the lots, or tract of ground abutting the sidewalk, on which such work has been performed. Assessments may be spread over a 10-year period at an interest rate of two percent over current bank rates. Any costs less than $500.00 will be assessed in one installment. There will also be a $100.00 administrative fee if costs are assessed against the property. The Public Works Director does not have the authority to assess property owners in cases where there is not an existing sidewalk. New sidewalk installation is the sole discretion of the Council.

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

136.08 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk (or of the contractor or agent of the owner) to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

136.09 SIDEWALK GRANT PROGRAM. The Council may annually fund a Sidewalk Repair Grant Program to financially assist residents with the repair of their sidewalk. The grant program may also provide financial assistance to residents whose sidewalk has become out of compliance due to a tree planted on City property in compliance with Section 151.13. Information on the Sidewalk Grant Program, if available, shall be provided to any resident with sidewalk deemed defective through regular mail and the City's website.

136.10 SIDEWALK CONSTRUCTION ORDERED. Based on State law, the Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.11 STANDARD SIDEWALK SPECIFICATIONS. The City Engineer shall prepare complete plans and specifications for the construction, reconstruction, and repair of sidewalks and driveway crossings in sidewalks, which, upon approval of the Council, shall be kept on file in the office of the Clerk. The specifications shall include descriptions and location of barricades and warning lights. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision of and subject to inspection by the Public Works Director, and in accordance with the plans and specifications adopted in accordance with this chapter.

136.12 PERMITS FOR CONSTRUCTION OR REPAIR. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City. The permit shall state that the person will comply with the ordinances of the City and with the specification for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the Public Works Director, or their designee. All such permits shall be issued upon payment of sidewalk construction or repair fee. A copy of such permit shall be filed and preserved at City Hall. All permits for sidewalk improvements not ordered by resolution of the Council shall be issued in compliance with this chapter. The Public Works Director may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements. The person who makes a sidewalk construction or repair permit application shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution.

A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator and be open to inspection during regular business hours.

136.13 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Public Works Director shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. The notice shall order the work to stop until a permit is obtained, and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five days from receipt of the permit. If the owner fails to comply with this notice, the Public Works Director shall have the work completed and the costs assessed to the property owner.

136.14 INSPECTION AND APPROVAL. Upon final completion, the Public Works Director, or their designee, shall inspect the work. The Public Works Director, or their designee, may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Public Works Director shall indicate this on both copies of the permit.

136.15 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.

136.16 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.

136.17 DETERMINING LOCATION OF NEW SIDEWALKS. The decision as to where to place new sidewalks, including the side of the street and placement in relation to the curb, should be made at the recommendation of the City Engineer and should be based on a number of factors including environmental constraints and cost considerations. The design of sidewalks, necessary retaining walls, and materials will be subject to discussion at a public meeting prior to Council providing final approval. When constructing new sidewalks every effort should be made to limit the number of mature trees removed during the construction process. If a property owner wishes to save a mature tree that otherwise would need to be removed to allow for the sidewalk, that property owner may choose to have the tree saved by providing an easement for the sidewalk to go around the tree. This easement would be provided at no cost to the City. The

City is not responsible for replacing or compensating property owners for any landscaping located within the public right-of-way that is removed to allow for the installation of sidewalks.

136.18 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.19 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.20 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.21 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)

136.22 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottles, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.23 VEGETATION OVERGROWTH ON SIDEWALK. It is the responsibility of the abutting property owner to make sure that there is no vegetative overgrowth encroaching on the sidewalk. This includes grass encroaching onto the sidewalk thereby reducing the walkway width as well as keeping bushes and shrubs trimmed so that no part of the plant is encroaching on the sidewalk space. Tree branches should be a minimum of eight feet above the level of the sidewalk.

136.24 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.25 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.

[The next page is 1207]

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(2)(a))

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 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 of the *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15(2) and 364.7(3))

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted, vacating certain streets, alleys, or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
66-7	October 21, 1966		
67-4	June 26, 1967		
71-2	June 21, 1971		
71-3	June 21, 1971		
71-4	June 21, 1971		
71-5	June 21, 1971		
71-6	June 21, 1971		
71-7	June 21, 1971		
80-2	May 19, 1980		
97-1	March 3, 1997		
97-6	April 21, 1997		

[The next page is 1213]

CHAPTER 138

STREET GRADES

138.01 Purpose and Definition
138.02 Established Grades
138.03 Record Maintained

138.01 PURPOSE AND DEFINITION. This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades. As used herein, "grade" means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

138.02 ESTABLISHED GRADES. The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.03 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted, establishing street or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
20B	May 25, 1956		
20	May 19, 1958		
20C	September 22, 1958		
20D	April 6, 1959		
20E			
9-2159			
87-15	October 5, 1987		

[The next page is 1219]

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 Windsor Heights, 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.

[The next page is 1225]

CHAPTER 140

DRIVEWAY REGULATIONS

140.01 Definitions
140.02 Permit
140.03 Permit Fee
140.04 Standard Drive Approach Specifications
140.05 Drive Approach Requirements
140.06 Grade Variances
140.07 Failure to Obtain Permit; Remedies
140.08 Inspection and Approval
140.09 Repairing Defective Drive Approach

140.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Drive approach" means that part of any approach for motor vehicles to private property that provides access to a public street, highway, or alley within the right-of-way.

2. "Owner" means the person owning the fee title or the contract purchaser.

3. "Portland cement" means any type of cement except bituminous cement.

140.02 PERMIT. Before any person shall construct, repair, reconstruct, or replace a drive approach, said person shall obtain a written permit from the City Administrator. A written application for the permit shall be filed with the City Administrator. The application shall include the street address or legal description of the property, the name of the owner, the name and address of the person performing the work, and the proposed plan of construction or repair. The plan of construction or repair must include the depth, width, and type of surface used. The City Administrator shall issue the permit if the proposed plan meets all the requirements of this chapter, including any specifications contained herein, if the fee is paid, and if the construction or repair as planned will not create any substantial hazard in the use of the street for public travel or drainage. A permit shall expire six months after the date of issuance, if not constructed at that time.

140.03 PERMIT FEE. The applicant for a drive approach construction or repair permit shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator and shall be open to inspection during regular business hours.

140.04 STANDARD DRIVE APPROACH SPECIFICATIONS. The Public Works Director shall prepare complete plans and specifications for the construction, reconstruction, and repair of drive approach, which, upon approval of the Council, shall be kept on file in the office of the City Administrator. The specifications shall include descriptions in the use and placement of barricades and warning lights. All drive approach repairs or construction on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision of and subject to inspection by the Public Works Director. All such work must be performed in accordance with the plans and specifications adopted by the City.

140.05 DRIVE APPROACH REQUIREMENTS. All drive approaches constructed at any place where no sidewalk exists shall conform to the appropriate standards or specifications adopted by the Public Works Director and approved by resolution of the Council. All drive approaches shall be constructed of Portland cement from the street to the property line. All drive approaches shall be constructed of Portland cement or asphalt at any location beyond the property line. All drive approach shall be constructed so that the normal flow of drainage in the adjoining street will not be diverted or obstructed. In the event any person is unable to construct a drive approach to grade, the owner must sign a waiver agreeing to indemnify the City from all liability arising from the maintenance and construction of the drive approach.

140.06 GRADE VARIANCES. In any case where it appears that a steeper drive approach grade than that specified in this section is necessary or desirable because of existing terrain conditions, a drive approach may be constructed (in any place where no sidewalk exists) at such steeper grade. It shall be a condition to the granting of any permit to construct a drive approach at a grade other than that specified that all rights acquired by virtue of such permit shall be subject to the right of the City to construct sidewalks at the established grade. In any place where sidewalks have, prior to July 28, 1958, been constructed at a different grade than that specified in this section, drive approaches may conform to the grade of the existing sidewalks. Nothing herein shall permit the construction of any drive approach so as to divert or obstruct the normal flow of drainage in the adjoining street.

140.07 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any drive approach construction or repair is made that does not conform to the provisions of this chapter and with the specifications, or when any drive approach construction, or repair is made without a permit, the City Administrator shall serve notice to the property owner and the contractor doing the work that a permit must be obtained. If the drive approach is in the course of construction or repair, the notice shall order the work to stop until a permit is obtained, and the work is corrected to comply with the specifications. If the drive approach work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five days after receipt of the permit. If the owner fails to comply with this notice, the City Administrator shall have the work completed by an outside contractor and assess the costs to the property owner as provided in Section 140.09.

140.08 INSPECTION AND APPROVAL. Upon final completion, the Public Works Director shall inspect the work. The Public Works Director may order corrections in the work if it does not meet specifications.

140.09 REPAIRING DEFECTIVE DRIVE APPROACHES. It shall be the duty of the abutting property owner at any time, or upon receipt of 30 days' notice from the City, to repair, replace, or reconstruct all broken or defective drive approaches in the City right-of-way abutting said property owner's property. If, after the expiration of the 30 days as provided in the notice, the required work has not been done or is not in the process of completion, the Public Works Director shall proceed to repair, replace, or reconstruct the drive approach. Upon completion of work, the Public Works Director shall submit to the Council an itemized and verified statement of expenditures for material, labor, and the legal description of the property abutting the drive approach on which work has been performed. These costs shall be assessed to the property as taxes.

[The next page is 1231]

CHAPTER 141

FIBER OPTIC CABLE LICENSE

141.01 Definitions
141.02 Basic Grant
141.03 Construction and Repair of Network
141.04 Excavations
141.05 Work by Others; Alteration to Conform with Public Improvements
141.06 Licensee Contractors
141.07 Conditions of Public Property Occupancy
141.08 Powers of City
141.09 Plans and Coordination
141.10 Removal of Licensee Facilities
141.11 Liability and Indemnification
141.12 Notices to Licensee
141.13 Assignment

141.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Public improvements" means any improvements on public property, including, but not limited to, paving, sidewalks, grass, vegetation, trees; streetlights, traffic signals, water mains, sewers, electric transmission lines, and equipment related thereto.

2. "Public property" means City-owned or controlled public rights-of-way, easements, bridges, squares, and commons.

3. "Licensee" means the applicant named in the application for fiber optic cable license and includes all equipment owned, operated, leased, or subleased in connection with the operation of the network, and includes, but is not limited to, poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, and other structures or appurtenances.

141.02 BASIC GRANT. Upon approval of an application hereunder by the City, and for a period of two years unless otherwise terminated, subject to the terms and conditions of this chapter, the licensee is hereby granted a license to construct, maintain, inspect, protect, repair, replace, retain a communications system in, under, upon, along, and across the public property shown and identified in the plans and specifications submitted to the City with the licensee's application, subject to the regulatory powers of the City and subject to the conditions hereinafter set forth, as may be amended from time to time by the Council in its sole and absolute discretion. The licensee will be required to pay a license application submittal and annual license fee. Fees shall be established by the Council by resolution, which is on file with the Clerk.

141.03 CONSTRUCTION AND REPAIR OF NETWORK. In the process of location, construction, reconstruction, replacement, or repair of any system component, the excavation or obstruction made or placed in public property at any time or for any purpose by the licensee shall protect the public and, to assure the safe and efficient movement of traffic, be properly barricaded to comply, at a minimum, with requirements set forth in the *Manual on Uniform Traffic Control Devices*. All pavement taken up or damaged shall be properly and speedily replaced in accordance with the City's regulations. As a condition to use of public property, the licensee shall, at its own expense, repair any private property, public utility system component, public improvement, or public property damaged by such location, construction, reconstruction, replacement, or repair work in a manner reasonably acceptable to City. If the licensee fails to repair or arrange with the City for the proper repair of any public property after excavations have been made, and after 10 days' notice in writing to do so is given to its designated representative, then the City may make such repairs at the expense of the licensee.

141.04 EXCAVATIONS. The licensee is authorized to make excavations in City streets, avenues, alleys, and public places for purposes of routine repair, replacement, and maintenance of poles, wire, or other system components associated with the licensee. In making such excavations, the licensee shall obtain a permit pursuant to City ordinances and regulations, shall not unnecessarily obstruct the use of streets, avenues, alleys, or public places, shall provide the Public Works Director with 24 hours' notice prior to the actual commencement of the work, and shall comply with all provisions, requirements, and regulations in performing such work. In emergencies that require immediate excavation, the licensee may proceed with the work without first applying for or obtaining the permit; provided, however, the licensee shall apply for and obtain the permit as soon as possible after commencing such emergency work. If the licensee fails to comply with the provisions of this section, the City may repair or restore the public property to a condition at least as good as the condition of the property prior to the disturbance by the licensee. The licensee shall pay the costs of such repair or restoration. The licensee shall pay to the City its costs and charges for such work within 30 days after receipt of the City's billing.

141.05 WORK BY OTHERS; ALTERATION TO CONFORM WITH PUBLIC IMPROVEMENTS. The City reserves the right to lay, and permit to be laid, wires, pipes, cables, conduits, ducts, manholes, and other appurtenances, and to do, or permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in, across, along, over, or under any public property occupied by the licensee and to change any curb or sidewalk or the grade of any street. In permitting others to do such work, the City shall not be liable to the licensee for any damages arising out of the performance of such work by other parties. Nothing in this chapter shall be construed as to relieve any other person or corporation from liability for damage to the licensee's facilities.

141.06 LICENSEE CONTRACTORS. The requirements of the licensee shall apply to all persons, firms, or corporations performing work for the licensee under a contract, subcontract, or other type of work order.

141.07 CONDITIONS OF PUBLIC PROPERTY OCCUPANCY. The fiber optic cable systems and other components of the facilities erected by the licensee within the City shall conform to established grades of streets, alleys, and sidewalks, and be so located as to cause minimum interference with other public utilities located in or upon public property, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin public property. The licensee shall conduct its work hereunder in such manner as to cause as little interference as possible with pedestrian and vehicular traffic, and shall abide by scheduling directions, if any, given by the Public Works Director. Prior to undertaking any work in the area licensed hereunder, in addition to consulting records maintained by the City, if any, the licensee shall be responsible for locating any and all existing facilities located at or near the site that may, in any way, be impacted by the licensee's work hereunder. The licensee shall indemnify and hold harmless the City for any and all damages in any way related to activities undertaken by the licensee hereunder, regardless of any alleged negligence by the City. The licensee shall, upon 60 days' notice and at its sole cost and expense, remove, locate, and relocate its facilities in, on, over, or under public property in such manner as the City may at any time require for the purpose of facilitating the construction, reconstruction, maintenance, repair, or change in grade of any public improvement on, in, or about any such public property, for the purpose of promoting the efficient operation of any such improvement, or for the purposes of facilitating the vacation or redevelopment of public right-of-way by the City, as it deems appropriate in its sole discretion. In the event the licensee fails to act as directed hereunder within the time prescribed in the notice, the license issued to licensee shall be deemed terminated

immediately, without further action of the City. The City may proceed as it so desires, including, but not limited to, removing, destroying, or burying the facilities, as the City deems appropriate. The licensee releases, indemnifies, and holds the City harmless for any and all actions undertaken by the City hereunder. The licensee shall not place its facilities in the public property where the same will interfere with the normal use or maintenance of any public improvement, including, but not limited to, streets, alleys, sidewalks, traffic control devices, sanitary sewers, storm sewers, storm drains, water mains, or electrical transmission lines, or any public utility facility. Upon request, the licensee agrees to assist in locating underground facilities which are part of its system. Such assistance will be provided in a timely manner, but not more than 48 hours after the time of request. As a condition of the agreement, the licensee shall enroll as a member of the One-Call System and shall respond to all requests and notifications placed to the toll free One-Call number. Installation, repair, or replacement work completed by the licensee on any facilities requiring excavation of public property or public right-of-way shall require restoration and replacement of surface vegetation with sod in conformance with City ordinances and in accordance with standard local practices for placing sod.

141.08 POWERS OF CITY. Nothing in this chapter shall be construed to abridge the right or power of the City to make further regulations relative to the use of the streets, alleys, and public grounds by anyone using the same for the erection and maintenance of utility systems.

141.09 PLANS AND COORDINATION. The licensee shall keep complete and accurate maps and records on the locations and operations of its facilities in connection with license and provide a full, completed construction copy to the City.

141.10 REMOVAL OF LICENSEE FACILITIES. The license granted pursuant to this chapter shall expire upon the conclusion of the term specified in this chapter, unless previously terminated. At least seven days prior to the expiration or termination of the license granted hereunder, the licensee shall be responsible for removing its facilities and equipment from public property and restoration of public property affected as part of the removal in the manner set forth in this chapter, at its sole cost and expense. In the event licensee fails to remove its facilities and equipment prior to the expiration or termination date of the license, any facilities or equipment shall be deemed abandoned. Any facilities, equipment, or other property remaining anywhere on public property after the expiration or termination of the license may be destroyed, removed, or otherwise disposed of by the City in any manner whatsoever and the licensee shall hold harmless the City from any and all liability in any way occasioned by the actions of the City hereunder.

141.11 LIABILITY AND INDEMNIFICATION. The licensee covenants to indemnify, defend, and save the City and its officers, agents, and employees harmless from any and all damages arising directly from the exercise of the rights granted herein, including, but not limited to, attorney's fees. The licensee agrees to require contractors and subcontractors engaged in work for the licensee within the public rights-of-way or on public property to maintain in effect during the term of work liability insurance in comprehensive form and in the amounts to be set by the City. Licensee agrees to accept the risk of having its communications systems and equipment upon the public right-of-way, including the possible risk of damage or injury to its system or equipment, and agrees to release and discharge the City of any liability for damage or injury to the licensee's equipment. In no event shall the City be liable for any consequential damages arising out of any damage or injury to the licensee's equipment placed in the right-of-way.

141.12 NOTICES TO LICENSEE. Licensee shall be responsible for keeping the City apprised of the address to which notices should be sent throughout effective term of the license. Notices sent by the City pursuant to this chapter shall be sent to the address of licensee identified on the application, or any address identified in writing addressed to the Clerk's office by the licensee thereafter. Notice shall be deemed given by the City by mailing notice to the address provided by licensee hereunder by ordinary mail.

141.13 ASSIGNMENT. Neither party shall assign or otherwise transfer the agreement or any of its rights and interest to any firm, corporation, or individual, without the prior written consent of the other party, except either party shall have the right to assign, convey, or otherwise transfer its rights, title, interest, and obligations under the agreement, in whole or in part, to any entity controlled by, controlling or under common control with a party thereto, or any entity into which a party may be merged or consolidated or which purchases all or substantially all of the assets of such party.

[The next page is 1239]

CHAPTER 142

PARKLETS

142.01 Intent and Purpose
142.02 Permit Required
142.03 Definitions
142.04 Permit Requirements and Associated Fees
142.05 Permit Application and Site Plan Approval
142.06 Construction of Parklet Improvements
142.07 Parklet Operation and Conditions
142.08 Dates and Hours Of Operation
142.09 Taxes, Assessments; Operating Costs, and Utility Charges
142.10 Indemnity and Insurance Requirements
142.11 Denial; Revocation or Suspension of Permit
142.12 Appeals

142.01 INTENT AND PURPOSE. The establishment of a program for the siting, installation, construction, operation, use, maintenance, and repair of parklets is designed and intended to facilitate the conversion of inactive and often underutilized on-street parking spaces into publicly accessible open space available for the general public to enjoy within a system of conditions. Parklets are located within a public right-of-way, and may include tables, seating, umbrellas, landscaping, food and beverage service, and sunshade, all of which are intended to enhance the quality of the pedestrian experience. The program for parklets is designed to provide a path for merchants to take individual action in the development and beautification of the City's public realm and are further intended as an aesthetic enhancement to the streetscape, providing an economical solution to the need for increased public open space and encouraging of walking by providing amenities like seating, planting, bike parking, and art. Parklets may also be used as an extension of services for restaurants to offer seasonal outdoor patio services for patrons.

142.02 PERMIT REQUIRED. Operating a parklet within the public rights-of-way of the City without a permit and a Parklet Revocable License executed by the permittee and City, and paying the appropriate fees, costs, and charges relating thereto in accordance with the provisions of this chapter is prohibited. A parklet, permitted and operated in accordance with this chapter, shall not be considered an obstruction of a public right-of-way.

142.03 DEFINITIONS. As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meanings indicated:

1. "Applicant" means a person or entity that has applied for approval of a parklet site plan. The applicant shall include, jointly and severally, both

   A. The owner or operator of the qualifying business; and

   B. The fee simple owner of the real property upon which the qualifying business is situated.

After approval of the permit for the parklet and the parklet site plan by the City and execution of a Parklet Revocable License authorizing the design, construction, installation, use, maintenance, and removal of the parklet, the applicant shall be known as the "permittee."

2. "Leasing applicant" means any person or entity that has applied to lease a City owned parklet as set forth in Section 142.13. The applicant shall include, jointly and severally, both:

   A. The owner or operator of the qualifying business; and

B. The fee simple owner of the real property upon which the qualifying business is situated.

After approval of the parklet lease by the City and execution of a Parklet Use Agreement, the applicant shall be known as the "lessee."

3. "Lessee" means, jointly and severally:

A. The owner or operator of the qualifying business, and

B. The fee simple owner of the real property upon which the qualifying business is situated, whom the City has approved to lease a City-owned parklet and have executed a Parklet Use Agreement.

4. "Parklet" means the platform installed by a permittee over parking spaces adjacent to a sidewalk area upon which tables, chairs, umbrellas, landscaping, benches, and other accessory components may be placed to create an enhanced pedestrian experience for the general public and patrons of the permittee's adjacent business, providing an area within which the pedestrian experience along the public right-of-way may be amplified and enhanced by offering an area with which one might site, rest, recreate, or indulge in open air dining and beverage experience. The term parklet, when permitted, also includes the ongoing obligation of maintenance, repair, operation, and removal of the parklet improvements in accordance with the terms and conditions of this chapter. Parklets and the Parklet Revocable License must be undertaken at the sole cost and expense of the permittee. The parklet shall be located no farther than 150 feet from any portion of the qualifying business.

5. "Parklet improvements" means the improvements identified on the approved parklet site plan, which such improvements may, but shall not necessarily, include parklet platform, tables, chairs, umbrellas, and other accessory equipment to the project, railings, seating, landscape or streetscape elements, soft-hit poles, wheel stops, etc.

6. "Parklet license area" means the area described in the approved parklet site plan, such license area being within a public right-of-way, including the air space with which the parklet improvements identified in the Parklet Revocable License shall be constructed, and within which the parklet will be operated and maintained for the purpose of accommodating the general public and the patrons of permittee's adjacent business.

7. "Parklet Revocable License" means the instrument that the permittee and City must execute after approval of the parklet location and parklet site plan. The Parklet Revocable License shall outline the terms and conditions required for the implementation of the construction, installation, use, operation, maintenance, and removal of the parklet after approval by the Commission.

8. "Parklet site plan" or "site plan" means the site plan prepared by the applicant and approved by the City and incorporated into the Parklet Revocable License that authorizes the design, construction, installation, operation, and maintenance of the parklet. Approval of the site plan does not relieve permittee of proceeding with all other governmental approvals otherwise applicable to the construction, installation, use, operation, and maintenance of the parklet, including Building Permits under the City's *Building Code* and engineering permits under the City's regulations. A copy of the approved parklet site plan shall be attached to the Parklet Revocable License authorizing the parklet and shall be filed with the City.

9. "Permittee" means, jointly and severally:

A. The owner or operator of the qualifying business, and

B. The fee simple owner of the real property upon which the qualifying business is situated, whom have been approved for a parklet permit and parklet site plan, and have received a Parklet Revocable License authorizing the design, construction, installation, use, maintenance, and removal of a parklet.

10. "Qualifying business" means the business located no farther than 150 feet from the parklet where the owner or operator of the qualifying business is one of the two applicants for the permit to construct, install, operate, use, maintain, repair, and remove the parklet.

142.04 PERMIT REQUIREMENTS AND ASSOCIATED FEES. The following are permit requirements and associated fees needed to obtain a parklet permit:

1. A permit for a parklet shall be issued only to the permittee who shall include, jointly and severally:

A. Operator of the qualifying business; and

B. The fee simple owner of the real property upon which the qualifying business is located.

2. The application fee and annual permit fee for establishing, operating, and maintaining a parklet shall be determined by the Council and set forth in a resolution.

142.05 PERMIT APPLICATION AND SITE PLAN APPROVAL. The following are permit requirements and associated fees needed to obtain a parklet permit:

1. The application for a permit to construct, operate, use, maintain, and repair a parklet shall be submitted to the City's Planning and Zoning Commission on a form provided by the Commission. The application shall include, but not be limited to, the following information:

A. Name, postal address, e-mail address, and phone numbers of the applicant;

B. The application shall be executed by:

(1) The owner or operator of the qualifying business; and

(2) The fee simple owner of the real property upon which the qualifying business is situated;

C. A copy of the valid Certificate of Occupancy for the qualifying business;

D. A copy of the current liability insurance for the applicant and fee simple owner of property underlying the qualifying business;

E. A drawing (minimum scale of one inch equals 20 feet) showing the layout and dimensions of the proposed parklet license area and parklet and adjacent property, including the structures and improvements to be located on the parklet, proposed location, size, and number of tables, seating, umbrellas, location of entries, location of trees, parking meters, parking spaces utilized, vehicular travel lanes, bus shelters, sidewalk benches, trash receptacles,

landscaping, utility boxes, pole, guidelines, and other sidewalk obstruction either existing or proposed within 75 feet of the license area for the parklet;

F. Photographs, drawings, or manufacturer's brochures fully describing the appearance of all proposed tables, chairs, umbrellas, or other objects relating to the parklet improvements;

G. A plan for the maintenance and cleaning of the parklet license area; the tables and chairs located within the parklet area; any trash or food on or about the tables and chairs or sidewalk adjacent to the parklet improvements; and the disposal of any trash or debris generated from the operation and use of the parklet by the general public and patrons of the permittee;

H. Any permits or approvals required from any other governmental agency necessary to operate the parklet;

I. Applications shall be accompanied by a non-refundable application fee which shall be credited to the first-year permit fee, should the application be approved.

J. Eligible locations for parklets shall be limited to the following, unless otherwise approved by the City's Planning and Zoning Commission:

(1) Parklets shall be sited along the curb line on streets where on-street parking spaces exist. The parklet can be considered on any location where there are, or would be, spaces for on-street parallel, angled, or perpendicular parking, including spaces with metered or unmetered parking;

(2) Parklets are generally permitted on streets with a running slope (grade) of five percent or less.

(3) Parklets shall be located on streets with traffic speeds of 25 mph or less;

(4) Parklets shall not block access to public utilities, hydrants, sidewalks, alleys, or driveways.

2. The Planning and Zoning Commission shall review the materials in Subparagraph (1) above and grant approval, approval with conditions, or denial of the application for a parklet. Approval of the parklet site plan under this section shall not relieve the permittee of the obligation of securing all required governmental permits necessary for construction of the parklet improvements, to the extent required, which such permits may include, but are not necessarily limited to, a Building Permit and Engineering Permits under the City's regulation. A copy of the approved parklet site plan shall be placed and remain on file with the City.

3. At all times the permit for the approved parklet, parklet site plan, and Parklet Revocable License shall be subordinate and inferior to the City's superior interest in maintaining the public right-of-way underlying the parklet. In the event that any conflicts should ever arise between the City's superior interest as aforesaid and the operation, use, maintenance, and repair of the parklet, then, in that event, the rights of the City's use and obligation of maintaining the public right-of-way for its superior intended purpose shall prevail over that of the permittee, and the permittee shall not be entitled to any compensation for interference with the operation and use of the parklet. The permitted shall gain no property right or contract right to the continued operation and use of the parklet.

4. In the event the permittee desires to make modifications to the parklet site plan or parklet improvements after initial approval is granted under Subsection 2 above, such proposed modifications shall be submitted to the Planning and Zoning Commission for review and approval following the processes set forth above. Approval of such modification shall be granted, granted with conditions, or denied by the Commission.

142.06 CONSTRUCTION OF PARKLET IMPROVEMENTS.

1. The parklet license area shall be used as the site for the construction, maintenance, and repair of the parklet improvements and the use and operation of the parklet and shall be used for no other purpose whatsoever, unless otherwise approved by the City. The permittee shall construct the parklet in accordance with the following terms and conditions:

A. The permittee shall prepare construction plans and specifications based on the parklet site plan approved by the Planning and Zoning Commission in accordance with the provisions set forth in Section 142.05. The construction plans and specifications shall be in accordance with the City's engineering standards and shall be submitted to the Planning and Zoning Commission for approval prior to submission of same to the appropriate government officials for issuance of applicable permits in accordance with applicable governmental regulations, including, but not limited to, the *State Building Code*, applicable unified land development regulations, applicable City Codes, and City engineering regulations.

B. After approval by the Planning and Zoning Commission, the construction plans and specifications shall be submitted by the permittee to the appropriate governmental officials for review and issuance of all applicable building and engineering permits in accordance with the laws, regulations, and rules of all governmental entities with jurisdiction over the construction of the project improvements. A copy of the approved plans and specifications shall be placed and remain on file with the City.

C. The permittee shall be responsible for all costs and fees associated with the planning, permitting, and construction of the project. The permittee agrees that the location and finish grades of the improvements shown on the parklet site plan will be indicated on the site and approved by the Planning and Zoning Commission prior to commencement of construction.

D. Parklet construction and installation must be overseen by an insured, certified contractor.

E. The permittee is obligated to replace any and all landscaping and public improvements that are damaged as a result of the construction and installation of the parklet improvements utilizing the same quality of materials and workmanship as approved by the City.

142.07 PARKLET OPERATION AND CONDITIONS.

1. Depending on the nature of the permit requested and authorized, the parklet may be operated for the purpose of accommodating the public in general, without charge, or the patrons of the permittee, and may include providing open air dining and beverage service opportunities, provided, however, that nothing herein shall be construed as prohibiting the permittee from charging for the sale or service of food or beverage within the parklet license area for sales from the qualifying business.

2. Permittee shall preserve and protect all existing trees and plantings in the public right-of-way within the immediate vicinity of the parklet. Permittee shall be required to replace or mitigate entirely, at permittee's expense, any damage to the public right-of-way or private property as a result of the parklet construction, installation, placement, operation, maintenance, or removal.

3. General landscape maintenance attendant to the parklet should be performed on a regular basis at the permittee's sole cost and expense.

4. Awnings, umbrellas, and other decorative material accessory to the parklet shall be fire retardant, pressure treated or manufactured of fire resistive material. Patio heaters or heat lamps shall be allowed on the parklet if pre-approved by the City's Fire Chief, or their designee.

5. Tables, chairs, umbrellas, and any objects accessory to the parklet shall be maintained in a clean and attractive appearance, shall be in good state of repair at all times, and shall be maintained in accordance with the approved maintenance plan, and shall keep the landscaping and plants in a good, healthy, and vibrant condition.

6. The parklet shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day in compliance with the approved maintenance plan.

7. No tables or chairs will be permitted within 10 feet of a pedestrian crosswalk. There must be a distance separation of no less than two feet separating the structure of the parklet and the adjacent travel lane.

8. The City may require the permittee to provide additional services beneath the parklet platform, including, but not limited to, pest abatement service and clearing of catch basin grates to allow proper storm drainage.

9. No portion of any object placed within the parklet boundary shall extend into an adjacent pedestrian sidewalk.

10. If the parklet includes planters, the planters must be placed within the parklet boundaries but must be secured to ensure that they do not move onto the adjacent un-level sidewalk. No planters with wheels are to be permitted.

11. Tables, seating, umbrellas, and any other items accessory to the parklet shall be of a quality, design, and lasting materials, and workmanship both to ensure the safety and convenience of the users and to be compatible with the uses in the immediate vicinity of the parklet.

12. A permittee may sell and serve alcohol beverages in a parklet only if the permittee complies with all the requirements for obtaining an Alcohol Beverage License, and the parklet is listed on the Alcohol Beverage License Application as being a part of the licensed premises. In such cases, alcohol may be served at the parklet under the following conditions:

A. The permittee has a valid and appropriate Retail Alcohol Beverage License for the principal premises.

B. The Retail Alcohol Beverage License premises description includes the parklet in the description of the licensed premises as an extended area.

C. The Retail Alcohol Beverage License permits the sale of the type of alcohol beverages to be served in the parklet.

D. Alcohol beverages are sold and served by the licensee or licensee's employees and sold or served only to patrons seated at tables in the parklet.

E. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances, and regulations.

F. Alcohol beverages may only be served at the parklet when food service is available through the licensed establishment.

G. The permittee shall be responsible for policing the parklet area to prevent underage persons from entering or remaining in the parklet, except when underage persons are allowed to be present on the licensed premises under applicable laws.

H. The area of the restaurant from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the parklet area, unless pre-approved by Police Chief, City Administration, and Council.

I. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the parklet area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the parklet between 12:00 a.m. and 8:00 a.m.

13. No smoking or use of tobacco of any kind shall be permitted within the parklet license area. The permittee shall purchase a minimum of two "No Tobacco" signs for each entrance of the parklet.

14. No advertising signs or business identification signs shall be permitted within the parklet license area.

15. No food preparation, food or beverage station, refrigeration apparatus, or equipment shall be allowed on the parklet unless authorized by the Planning and Zoning Commission as part of a special event.

16. No table or chair nor any other part of the parklet may be attached, chained, or in any manner affixed to any tree or City fixture but may be affixed to the parklet structure.

17. If found necessary for the protection of health, safety, and welfare of the public, the City Administrator, or their designee, may require the permittee to immediately remove or relocate all parts of the tables, chairs, umbrellas, and equipment within the parklet license area. If the permittee fails to remove or relocate the tables, chairs, and umbrellas as requested within a reasonable time as determined by the City Administrator, given the circumstances at hand, the City may remove or relocate same in emergency situations, and the cost thereof shall be borne by the permittee.

18. Reflective elements are required at the outside corners of all parklets. Soft-hit posts are a standard solution deployed at the outside edges; however, the Commission will consider additional safety measures including bollards, reflective elements, or other solutions incorporated into the parklet design, if warranted.

19. For parklets in parallel parking spaces, a three-foot wheel stop or other appropriate "stops" such as planters must be installed one foot from the curb at the edge of the front and back parking spaces. When parklets are installed adjacent to parallel parking spaces, wheel stops or other appropriate "stops" such as planters should be set back four feet from the parklet improvements. For angled parking spaces adjacent to

driveways, appropriate locations for wheel stops will be determined by the Commission. Wheel stops should be made of recycled rubber. Concrete wheel stops are discouraged.

20. Traffic safety devices, including, but not limited to, bollards may be required depending on existing conditions and site layout to properly protect the parklet and its patrons.

21. The permittee is responsible for the costs associated with removal of the parklet platform and accessories.

22. The City and its officers and employees shall not be responsible for parklet or parklet components relocated during emergencies.

23. Amplified or non-amplified music may be permitted within the parklet area, upon recommendation of the Planning and Zoning Commission and subject to the approval of the City Administrator, or their designee, as to the hours at which the music may be played, the volume settings, placement of speakers, and any other facet of the projection of the music.

24. The permittee shall, at its sole cost and expense, remove the tables, chairs, and umbrellas from the parklet area at the close of permittee's qualifying business each day, provided the tables, chairs, and umbrellas are set back in the parklet license area by the opening of business (no later than 11:00 a.m.) the following day, except for inclement weather.

25. Parklets shall not be permitted in front of a fire hydrant, over a manhole, public utility valve, or cover. A clearance of 15 feet shall separate parklets from fire hydrants.

26. Parklets shall be required to have soft-hit posts, wheel stops, and barriers on all edges of the parklet platform.

27. The parklet shall be constructed and installed to conform to all applicable federal, State, or County laws or regulations.

28. There shall be a minimum of two feet wide clear path between the tables or seating within the parklet and any abutting sidewalks for pedestrians at all times.

29. The permittee shall keep on record with the Commission at all times, information on a contact person to be contacting during emergencies, such information on the contact person to include:

A. Name.

B. Mailing.

C. E-mail address.

D. Telephone number, both at work and residential.

30. The permittee shall have the continuing obligation of compliance with the *Americans with Disabilities Act*, as same may be amended from time to time.

31. The permittee shall, at its sole cost and expense, construct, operate, maintain, and repair the parklet and parklet improvements and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the parklet, parklet improvements and parklet license area will be installed, constructed, operated, used, maintained, and repaired in order to comply with health and sanitary requirements, fire hazard requirements, zoning requirements, *Building Code*

requirements, City engineering standards, environmental requirements, and other similar regulatory requirements.

142.08 DATES AND HOURS OF OPERATION.

1. Parklets shall be permitted from April 1 through October 31, unless otherwise approved by the Planning and Zoning Commission. Parklets that have not been removed after October 31 may be removed by the City at the permittee's expense.

2. The parklet shall only be open and available for serving permittee's patrons between the hours of 8:00 a.m. and 12:00 a.m.

142.09 TAXES, ASSESSMENTS; OPERATING COSTS, AND UTILITY CHARGES.

1. The permittee shall pay, or cause to be paid, all applicable real estate taxes, assessments, and other similar payments, usual or unusual, extraordinary as well as ordinary, which shall during the term be imposed upon, become due and payable, or become a lien upon the parklet or parklet license area or any part thereof, but specifically limited to such taxes or assessments which accrue after the effective date of the Parklet Revocable License. Permittee shall, upon request, exhibit a receipt for such payments to the City. Further, permittee shall pay, or cause to be paid, all operating expenses, such as those for light, electricity, charges for water, and all costs attributable to the maintenance and operation of all parklet improvements to be erected within the license area for the parklet or landscaping related thereto.

2. The permittee shall be responsible for securing separate meters or billing for all utilities consumed within the parklet license area. Permittee shall promptly pay when due all operating, construction, maintenance and servicing charges, expenses and costs, including telephone, gas, electricity, cable, telecommunications, water, and all other expenses incurred in the use and operation of the parklet. The accrual of utilities and operating costs under this subparagraph prior to termination of the Parklet Revocable License shall survive the termination of the Parklet Revocable License and remain the obligation of the permittee.

142.10 INDEMNITY AND INSURANCE REQUIREMENTS.

1. By execution of the Parklet Revocable License as a condition precedent to the installation, construction, use, operation, maintenance, and repair of a parklet, the permittee shall protect, defend, indemnify, and hold harmless the City, its officers, employees, and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses, including reasonable attorney's fees, or liabilities of every kind, nature, or degree arising out of or in connection with the rights, responsibilities, and obligations of permittee under the Parklet Revocable License, conditions contained therein, the location, construction, repair, maintenance, use, or occupancy by permittee of the parklet license area, or the breach or default by permittee of any condition proscribed by this chapter or covenants or provisions of the Parklet Revocable License, except for any occurrence arising out of or resulting from the intentional torts or gross negligence of the City, its officers, agents, and employees.

2. At all times while the Parklet Revocable License is in effect, the permittee, at its expense, shall keep or cause to be kept in effect the following:

A. Commercial General Liability – Limits of liability:

(1) Bodily injury and property damage liability:

a. Each occurrence - $1,000,000.00

B. Business Automobile Liability – Limits of liability:

(1) Bodily injury and property damage:

a. Per occurrence - $1,000,000.00 combined single limit;

b. Including hired, borrowed, or non-owned autos.

C. Employer's Liability.

(1) Limits of liability:

a. Each accident - $100,000.00 for bodily injury caused by an accident;

b. Each employee - $100,000.00 for bodily injury caused by disease;

c. Policy limit - $500,000.00 for bodily injury caused by disease.

The permittee shall deliver to the City copies of all insurance policies required hereunder and provide proof of full payment thereof on or before the effective date of the Parklet Revocable License. From time to time, the permittee shall procure and pay for renewals of insurance required herein before it expires. The permittee shall deliver to the Planning and Zoning Commission the renewal policy at least 20 days before the existing policy expires.

3. If the permittee fails to obtain and maintain insurance as required herein and such failure shall continue for a period of 15 days after notice by the Commission, the City may, but shall not be obligated to, effect and maintain any such insurance coverage and pay premiums therefore, with the ultimate cost and expense thereof to be the responsibility of permittee.

142.11 DENIAL; REVOCATION OR SUSPENSION OF PERMIT.

1. The Planning and Zoning Commission may deny, revoke, or suspend a permit for a parklet if it is found by the Commission that:

A. Any required business or health permit has been suspended, revoked, or cancelled.

B. The permittee does not have the insurance that is correct and effective in the minimum amounts described in Section 142.10.

C. Violation of any of the conditions set forth in Section 142.07 or any other provision of this Code.

D. The permittee has failed to correct violations of this chapter or conditions of the permit within three days of receipt of the Planning and Zoning Commission's notice of same delivered in writing to the permittee by registered

mail, return receipt requested, to the last address provided by the permittee to the City.

2. The permit for a parklet may be suspended under the following conditions:

A. In the event that the Parklet Revocable License granted herein shall:

(1) Ever conflict with a superior municipal interest of the City or public, or

(2) At any time, the City requires the use of the parklet license area for a superior conflicting municipal purpose; or

(3) Determines that continuation of the Parklet Revocable License granted herein is no longer in the best public interest, all as determined by the City Planning and Zoning Commission after at least 15 days advance notice to permittee that the matter will be considered by the Planning and Zoning Commission, then, in that event, the permit and Parklet Revocable License granted herein for the respective parklet license area shall be terminable, in whole or in part, at the will of the Planning and Zoning Commission.

B. In the event permittee is in violation of any material term or condition of this Parklet Revocable License, as reasonably determined by the City Administrator, or the permit granted herein or the actions of permittee or any of its agents, servants, employees, guests, or invitees or the agents, servants, employees, or any of permittee's contractors, subcontractors, or independent contractors conflict with a superior municipal interest of the City or the public, then, upon advance written notice to permittee of not less than 72 hours where permittee is given an opportunity to be heard on the matters by the City Administrator, the authority granted by the Parklet Revocable License or permit may be temporarily suspended by the City Administrator for a period not exceeding 14 days.

C. In the event that emergent conditions arise within the parklet license area that present an imminent threat to the health, safety, or welfare of persons or property, the City Administrator may temporarily suspend this Parklet Revocable License, in whole or in part, for a period not to exceed 14 days. In such a circumstance, 24-hour advanced written notice shall be provided to permittee by registered mail, return receipt requested, to the last address provided by the permittee to the City. In the event the condition persists for a period of seven days, then this revocable license may be temporarily suspended for a period in excess of 14 days by action of the Planning and Zoning Commission.

3. Upon denial or revocation, the Director shall give notice of such action to the permittee in writing stating the action which has been taken and the reasons therefore.

142.12 APPEALS.

1. Appeal shall be initiated within 10 days of the effective date of the denial or revocation of the parklet permit by filing a written notice of appeal with the City Administrator.

2. The City Administrator shall place the appeal on the next available regularly scheduled Planning and Zoning Commission agenda. At the hearing upon appeal, the Planning and Zoning Commission shall hear and determine the appeal, and the decision of the Planning and Zoning Commission shall be final and binding and effective immediately.

3. The filing of a notice of appeal by a permittee shall not stay an order by the Planning and Zoning Director, or their designee, to remove a parklet or parts thereof. Vestiges of the parklet, such as tables, chairs, umbrellas, and things of a like nature shall be removed immediately as set out in this chapter pending disposition of the appeal and final decision of the Planning and Zoning Commission.

[The next page is 1323]

CHAPTER 151

TREES AND VEGETATION

151.01 Definitions
151.02 Planting Restrictions
151.03 Vision Clearance at Street Intersections
151.04 Assessment
151.05 Unauthorized Interference with Trees or Shrubs
151.06 Hitching or Anchoring Articles to Trees
151.07 Permission for Permanent Anchorage
151.08 Guying Poles to Trees in Case of Emergency
151.09 Permit to Remove Trees for Construction Purposes
151.10 Protection During Excavation or Construction
151.11 Tree Trim Specifications
151.12 Obstruction of Enforcement
151.13 Permit to Plant in Streets
151.14 Assessment for Planting or Care of Trees
151.15 Planting New Trees; Assessment
151.16 Schedule of Assessments
151.17 Filing Assessment Schedule for Public Inspection
151.18 Objections to Assessment Schedule
151.19 Adoption of Assessment Schedule
151.20 Certifying Assessment Schedule for Collection
151.21 Dead and Diseased Trees
151.22 Violations

151.01 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Parking" means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

2. "Superintendent" means the Public Works Director or such other person as may be designated by the Council.

3. "Tree" means any woody perennial plant having a single, elongate main stem with few or no branches on its lower part and shrubs of arborescent form but does not include any shrub that is less than 15 feet in height.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking unless a permit is issued pursuant to Section 151.13.

151.03 VISION CLEARANCE AT STREET INTERSECTIONS. On a corner lot where setback or side yard exists, no fence, wall, shrubbery, ground, sign, billboard, marquee, or other obstruction to vision between a height of two feet and 10 feet above the centerline grade of intersecting streets shall be erected, placed, planted, allowed to grow, or maintained within the triangular. The dimensions of a vision triangle shall be as follows:

1. Local Streets. Twenty-five feet in length, as measured along the curb line form the point where the curbs of the streets intersect.

2. Collector and Arterial Streets. Twenty-five feet in length, as measured along the ROW from the point where the two streets intersect.

Public utility poles and existing trees trimmed from the ground level to a height of 10 feet shall not be considered obstructions to vision.

151.04 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on such property owner requiring said property owner to do so within five days. If said owner fails to trim the trees within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.05 UNAUTHORIZED INTERFERENCE WITH TREES OR SHRUBS. No person shall remove, prune, cut, molest, break, deface, destroy, spray, repair, or do surgery work upon any tree or part thereof, or in any manner interfere with, disturb, or injure any tree, shrub, or plant, upon parking or the public property of the City. No person shall permit any chemical, either solids or fluids, to seep, drain, or be emptied on or about any tree, shrub, or plant that is now or may hereafter be growing upon any public property of the City, without first obtaining a permit from the City Administrator.

151.06 HITCHING OR ANCHORING ARTICLES TO TREES. No person shall hitch or fasten any animal to any tree or shrub, or fasten to the same, for the purpose of anchorage, any wire, rope, chain, or cable, nor shall any person nail, tie, or in any manner fasten any card, sign, poster, board, or any other article to any tree, shrub, or plant that is now or may hereafter be growing upon any parking or public property of the City.

151.07 PERMISSION FOR PERMANENT ANCHORAGE. Permission may be granted by the City Administrator for permanent anchorage to trees if good practice in line construction indicates the desirability and the elimination of stubs or poles will result by so doing.

151.08 GUYING POLES TO TREES IN CASE OF EMERGENCY. In the event of storms or other emergencies, poles may be guyed temporarily to trees.

151.09 PERMIT TO REMOVE TREES FOR CONSTRUCTION PURPOSES. Any person desiring to remove a live tree standing on a street or parking thereof for construction of walks, drives, buildings, or any other structures for their own gain or purposes shall first obtain a permit from the City Administrator. If a permit is issued, the permittee must pay the cost of removal of such trees and shrubs, or the permittee may remove the same at permittee's own expense.

151.10 PROTECTION DURING EXCAVATION OR CONSTRUCTION. All trees, shrubs, or plants within the limits of any street, parking, or other property of the City near any excavation or construction of any building or structure shall be guarded with a good substantial frame or box not less than four feet square and six feet high. All building material or other debris shall be kept at least three feet from any tree, shrub, or plant.

151.11 TREE TRIM SPECIFICATIONS.

1. Any person trimming trees or causing trees, bushes, and other plants to be trimmed under the authority of this section or sections of this Code pertaining to utility franchises, if the entity wishing to trim is not itself the owner, shall:

A. Cause written notice to be given to the owner, occupant, or person in control of the property at least 15 days prior to any trimming; provided, however, notice shall not be required if trimming is necessary to restore electrical service or relieve a public emergency resulting from storm, accident, similar casualty, or other cause which immediately threatens electrical service or public safety. The notice shall state the nature of the trimming to be performed, the person's right to trim the tree, shrubbery, bush, or other plants, the date when such trimming must be completed if the owner desires to do the trimming, and whether an assessment or charge will be imposed by such person for trimming the tree, bush, or other plant.

B. Trim trees, bushes, and plants to the extent necessary to remove obstruction to protect lives and property.

C. Employ persons skilled in tree trimming so that the life and general aesthetic qualities of the tree are preserved.

2. The owner of any tree, shrub, or plant protruding into or overhanging a street or sidewalk shall trim the branches thereof to remove any obstruction of the view of any streetlamp, street sign, traffic control device, or street intersection. A clear space of 10 feet above the surface of a street or sidewalk must be maintained. All trimming shall conform to the specifications in Subsection 1 of this section and to those required pursuant to the City's Traffic Code.

3. The City Administrator may order the removal of any tree, shrub, or plant or any part thereof which does not conform to the specification of Subsection 2 of this section. Notice shall be given to the owner of the property as set forth in Subsection 1 of this section. If the owner, occupant, or person in control fails to comply with the notice, the City Administrator shall cause the obstructing branches or foliage to be removed and shall submit the costs incident to the service of notice and removal to the Council, which shall certify the same to the County Auditor for collection with and in the same manner as general property taxes. Provided, however, in the event the City Administrator determines that a hazardous condition exists which constitutes an immediate danger to public safety because of the extensive nature or location of an obstruction caused by any tree, shrub, plant, or any part thereof, the City Administrator may cause the removal thereof forthwith without notice; and in such event, costs may be assessed in the same manner as provided above, after notice to the property owner and opportunity for hearing before the Council is given.

4. Except as provided by Subsection 3 of this section, no tree, bush, or shrub shall be removed without the written consent of the owner of the property upon which the tree, bush, or shrub is located.

5. Nothing in this section shall be construed to affect the rights of a landowner as against a neighboring landowner.

151.12 OBSTRUCTION OF ENFORCEMENT. No person shall hinder, obstruct, or otherwise interfere with the Superintendent, or their representatives, while engaged in carrying out the provisions of this chapter.

151.13 PERMIT TO PLANT IN STREETS.

1. No person shall plant or set out any tree, shrub, or plant in or on any parking, public highway, street, or other City property without first obtaining a permit from the City Administrator, which permit shall designate where such plantings may be done.

2. The permit shall be denied if such planting is likely to create a public danger or nuisance and shall not provide the permittee with any guarantee or assurance that the tree, shrub, or plant will be protected from subsequent trimming or destruction if such is required for health, welfare, or safety of the City's residents.

151.14 ASSESSMENT FOR PLANTING OR CARE OF TREES. The cost of planting, pruning, caring for, removing, or maintaining trees and shrubs, in whole or in part, upon the parking or public streets of the City may be assessed against the lots and parcels of land in front of which such trees or shrubs are planted and maintained.

151.15 PLANTING NEW TREES; ASSESSMENT. No plantings of new trees or shrubs shall be made and assessed against the abutting property owners except by action of the Council. Notice of a proposal to plant new trees or shrubs must be made by publication in one newspaper of general circulation in the City 15 days prior to final action thereon.

151.16 SCHEDULE OF ASSESSMENTS. The cost of planting new trees and shrubs and the maintenance thereof, including removals and partial removal of trees and shrubs, shall be certified to the Council by the Superintendent in a scheduled form setting forth the nature of the work done, the amount of the special assessment, the lots of specific portions thereof against which assessed, and the names of the owners thereof as far as practicable.

151.17 FILING ASSESSMENT SCHEDULE FOR PUBLIC INSPECTION. A schedule of assessments for planting of new trees and shrubs and maintenance, including removals and partial removal of trees and shrubs, shall be filed with the Clerk for public inspection.

151.18 OBJECTIONS TO ASSESSMENT SCHEDULE. Before final adoption of the schedule of assessments provided for in this chapter, the Council shall give notice by two publications in each of two newspapers published in the City, stating that the schedule is on file in the office of the Clerk and that, within 20 days after the first publication, all objections thereto or to the prior proceedings, on account of errors, irregularities or inequalities, must be made in writing and filed with the Clerk.

151.19 ADOPTION OF ASSESSMENT SCHEDULE. After the expiration of the 20-day period mentioned in Section 151.18, the Council shall consider objections to the schedule of assessments, make the necessary corrections, and make, approve, and adopt the special assessments as shown in the schedule.

151.20 CERTIFYING ASSESSMENT SCHEDULE FOR COLLECTION. Upon final adoption of special assessments as shown in the schedule of assessments, the Council shall cause the same to be certified to the County Treasurer with directions that the cost of the improvements or services as scheduled shall be assessed against the parcels of property designated therein, in the amounts set forth thereby, and that such amounts shall be collected as other special assessments.

151.21 DEAD AND DISEASED TREES.

1. Right to Enter, Test, and Inspect. The Public Works Director shall enforce the provisions of this section. To secure enforcement hereof, the Superintendent shall have the right and is hereby empowered to enter upon the property of any person within the City for the purpose of testing, inspecting, and obtaining samples of any trees, brush, wood, or debris thereon.

2. Permitting Dead or Diseased Trees or Plants to Stand.

   A. No property owner shall maintain or permit to stand upon their property any tree, shrub, plant, or part thereof which is dead, diseased, or so damaged as to be a menace to public safety.

   B. When the Superintendent determines that any tree, shrub, plant, or part thereof is dead, diseased, or so damaged as to be a menace to public safety, the Superintendent may direct the property owner, occupant, or person in control to remove the same within 30 days, or to appear before the Council at an appointed time not less than 14 days from the date of mailing to show cause for

hearing on the matter, to show cause why the tree, shrub, plant, or the appropriate part thereof should not be removed by the City with the cost of removal assessed against the property owner. At that meeting the Council may resolve and declare the same to be a public nuisance and may order its removal by the owner, occupant, or person in control within 30 days from the date of service of a copy of the resolution and order on the owner, occupant, or person in control.

C. If the owner, occupant, or person in control fails to comply with the resolution and order of the Council to so remove previously specified public nuisance, the Superintendent shall cause that public nuisance to be removed and shall submit the costs incident to the service and removal to the Council, which shall certify the same to the County Treasurer for collection with and in the same manner as general property taxes.

3. Removal of Trees, Shrubs, and Plants. The Superintendent may remove or cause to be removed all trees, shrubs, plants, or parts thereof upon the public streets or highways or other City property within the City when removal shall be beneficial to the public peace, health, and safety, or for public improvements, or if such trees, shrubs, or plants constitute a public nuisance or are dead or diseased, or detrimental to the growth of adjacent trees, plants, or shrubs growing in the public streets or other City property.

4. Removal of Trees Infected with Dutch Elm Disease, Emerald Ash Borer, or Oak Wilt.

A. In accordance with Section 364.12 of the *Code of Iowa*, any owner, occupant, or person in control of any property shall remove from such property, at their own expense, any tree, brush, wood, or debris infected with Dutch elm disease, emerald ash borer, or oak wilt or any dead oak or elm which retains bark, when so notified by the Superintendent. The Superintendent shall cause to be mailed to such owner, occupant, or person in control written notice that said person may appear before the Council at an appointed time not less than 14 days from the date of mailing to show cause why the infected tree, brush, wood, or debris should not be declared a public nuisance. At that meeting the Council may resolve and declare the same to be a public nuisance and may order its removal by the owner, occupant, or person in control within 30 days from the date of service of a copy of the resolution and order on the owner, occupant, or person in control; provided, however, upon timely receipt of a request in writing from the property owner showing inability to perform, hardship, or other good cause, the City Administrator may grant an extension of time to a maximum of an additional 30 days for said removal by the owner, occupant, or other person. No extension of time exceeding 60 days may be granted without prior approval by the Council.

B. If the owner, occupant, or person in control fails to comply with the resolution and order of the Council to so remove previously specified public nuisance, the Superintendent shall cause that public nuisance to be removed and shall submit the costs incident to the service and removal to the Council, which shall certify the same to the County Treasurer for collection with and in the same manner as general property taxes.

5. Diseased Tree and Hazardous Inspection Fees.

A. Fees for the City inspection of a tree or trees shall be paid to the Finance Director in an amount set by the Annual Fee Schedule approved by Council, provided fees for inspections not requested by the owner or the owner's representative shall be assessed only against those trees showing evidence of disease or hazardous conditions which requires removal of the tree or part of the tree.

B. For the purpose of this section, "private property" is defined as property not owned by the City.

151.22 VIOLATIONS. Violation of any section of this chapter shall be deemed a nuisance or a municipal infraction and may be enforced in accordance with Chapter 50 and Chapter 3.

[The next page is 1333]

CHAPTER 152

TEMPORARY STRUCTURES

152.01 Definitions
152.02 Compliance with Chapter Provisions
152.03 Permit Required
152.04 Permit Application
152.05 Permit Fees
152.06 Compliance with Codes
152.07 Removal

152.01 DEFINITIONS. "Temporary structure" means any shed, structure, building, trailer, tent, or enclosure of any kind used for storage, commercial, or business or residential purposes which any person or business intends to place on the same lot with or on any lot immediately adjacent to, any permanent structure used for business or commercial or residential purposes. This term includes "temporary portable storage container," which is defined as a large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods and that does not contain a foundation or wheels for movement. All other words or phrases shall have the same meaning assigned to them in Chapter 166.

152.02 COMPLIANCE WITH CHAPTER PROVISIONS. No temporary structure or accessory structure shall be erected, constructed, or placed, except as hereinafter provided.

152.03 PERMIT REQUIRED. No temporary structure or accessory structure shall be erected, constructed, or placed upon any commercial or business or residential property without first obtaining a permit from the Clerk. All permits are subject to approval by the Zoning Administrator. Further, the Zoning Administrator may impose certain reasonable requirements as may be required to keep the temporary structure from becoming unsightly to the surrounding properties.

152.04 PERMIT APPLICATION. Prior to seeking approval, an applicant shall file a permit application with the Clerk stating:

1. The name and address of the person or business seeking the permit;

2. A particular description of where the proposed temporary structure or accessory structure will be erected, constructed, or placed;

3. The need for such structure;

4. The period of time the proposed structure will be present on the property; and

5. A particular description, including the dimensions, of the temporary structure or accessory structure to be erected, constructed, or placed upon the property.

152.05 PERMIT FEES. Upon approval by the Clerk and payment of a permit fee, the Clerk shall issue a permit to the applicant. The permit for a Business or Commercial Class Permit shall be for a period of 30 days and shall authorize the erection, construction, or placement of a temporary structure on the property described in the application. The fee shall be in the amount as established, from time to time, by resolution of the Council. Residential Class Permit fee is waived for the first 180 days with the start of a new building, plumbing, mechanical, or electrical permit. After 180 days, fees imposed shall be in the amount as established, from time to time, by resolution of the Council.

152.06 COMPLIANCE WITH CODES. Any such temporary structure erected, constructed, or placed upon property shall comply with all applicable provisions of this Code, including the *Fire, Electrical, and Building Codes*. Containers must be placed on a hard-surfaced area and shall be located on the owner's lot, and no part of any container shall be located on any public property or in the right-of-way.

152.07 REMOVAL. All such temporary structures or accessory uses or structures shall be removed from the property at the expiration of the time period defined in the permit.

[The next page is 1339]

CHAPTER 153

TEMPORARY SIGNS

(See Chapter 175, Zoning Code - Sign Regulations)

[The next page is 1357]

CHAPTER 155

BUILDING CODES

155.01 Title
155.02 Adoption of Building Codes
155.03 Building Code
155.04 Residential Code
155.05 Mechanical Code
155.06 Plumbing Code
155.07 Electrical Code
155.08 Energy Conservation Code
155.09 Existing Building Code
155.10 Swimming Pool and Spa Code
155.11 Adoption Of International Fire Code

155.01 TITLE. This chapter shall be known as the Building Codes of the City, may be cited as such, and will be referred to herein as the "Windsor Heights Building Code(s)."

155.02 ADOPTION OF BUILDING CODES. The following codes are hereby adopted as, and constitute, the Building Codes of the City, to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City.

155.03 BUILDING CODE. The provisions of the *International Building Code*, 2024 Edition, as published by the International Code Council and with the addition of Appendix C, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Windsor Heights Building Code*, hereinafter referred to as "this Code."

2. Section 101.4.1 Gas. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this code to the *International Fuel Gas Code* shall be interpreted to refer to the Windsor Heights Fuel Gas Code."

3. Section 101.4.2 Mechanical. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this Code to the *International Mechanical Code* shall be interpreted to refer to the *Windsor Heights Mechanical Gas Code*."

4. Section 101.4.3 Plumbing. Delete "*International Plumbing Code*" and insert in lieu thereof "*Windsor Heights Plumbing Code*" and add at the end of the section: "All references in this Code to the *International Plumbing Code* shall be interpreted to refer to the *Windsor Heights Plumbing Code*."

5. Section 101.4.4 Property Maintenance. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this Code to the *International Property Maintenance Code* shall be interpreted to refer to the *Windsor Heights Property Maintenance Code*."

6. Section 101.4.5 Fire Prevention. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this Code to the *International Fire Code* shall be interpreted to refer to the *Windsor Heights Fire Code*."

7. Section 101.4.6 Energy. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this Code to the

International Energy Conservation Code shall be interpreted to refer to the *Windsor Heights Energy Conservation Code*."

8. Section 101.4.7 Existing Buildings. Delete "International" and insert in lieu thereof "Windsor Heights" and add at the end of the section: "All references in this Code to the *International Existing Building Code* shall be interpreted to refer to the *Windsor Heights Existing Building Code*."

9. Section 101.4 Referenced Codes. Add Subsection 101.4.8: "101.4.8 Electrical. The provisions of the *Windsor Heights Electrical Code* shall apply to the installation, alteration, repair, and replacement of electrical systems, including equipment, appliances, fixtures, fittings, and appurtenances. All references in this Code to NFPA 70 shall be interpreted to refer to the *Windsor Heights Electrical Code*."

10. Section 103.1 Creation of Enforcement Agency. Insert "Department of Building Safety".

11. Section 104.2.3 Alternative Materials, Design, and Methods of Construction and Equipment. Add Subsection 104.2.3.8: "104.2.3.8 Manufactured home installation. The *Iowa Administrative Code* 481, Chapters 321 and 322, are hereby adopted for installation of mobile (manufactured) homes."

12. Section 105.2 Work exempt from Permit. Building Item #1. Delete "120" and insert in lieu thereof "200."

13. Section 105.2 Work exempt from Permit. Building Item #2. Delete existing text.

14. Section 105.2 Work Exempt from Permit. Building Item #6. Delete existing text and insert: "Sidewalks and driveways located entirely on private property, and not more than 30 inches above adjacent grade, and not over any basement or story below, and not part of an accessible route."

15. Section 107.1 General. Delete "in two or more sets, or in a digital format where allowed by the Building Official,".

16. Section 107.3.1 Approval of Construction Documents. Delete this section.

17. Section 305.2.3 Five or Fewer Children in a Dwelling Unit. Delete this section and insert: "305.2.3: Eight or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having eight or fewer children receiving such daycare shall be classified as a Group R-3 Occupancy or shall comply with the *International Residential Code*."

18. Section 308.5.4 Five or Fewer Persons Receiving Care in a Dwelling Unit. Delete this section and insert: "308.5.4 Eight or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having eight or fewer persons receiving custodial care shall be classified as a Group R-3 Occupancy or shall comply with the *International Residential Code*."

19. Section 310.4.1 Care facilities within a Dwelling. Delete existing text and insert: "Care facilities for eight or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code*."

20. Section 423.5 Group E Occupancy. Delete existing text and insert: "In areas where the shelter design wind speed for tornadoes is 250 MPH in accordance with Figure 304.2 (1) of ICC 500, all Group E Occupancies with an occupant load of 50 or

more shall have a storm shelter constructed in accordance with Chapters 1 through 5 and 8 of ICC 500.

Exceptions:

1. Group E daycare facilities.

2. Group E occupancies, accessory to place of religious worship.

3. Buildings meeting the requirements for shelter design in ICC 500."

21. Section 423.5.1 Design Occupant Capacity. Delete existing text, exceptions excepted, and insert in lieu thereof "The required design occupant capacity of the storm shelter shall include all of the buildings on the site and shall be the greater of the total occupant load of the classrooms, vocational rooms, and offices in the Group E Occupancy, or the occupant load of any indoor assembly space that is associated with the Group E Occupancy. If multiple separate indoor assembly spaces are present, only the greatest indoor assembly space occupant load must be included."

22. Section 502.1 Address Identification. Delete existing text and insert: "New and existing buildings shall have approved address numbers, building numbers, or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall be black or white and shall contrast with their background. Where required by the Fire Code Official, address numbers shall be provided in greater dimensions or additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers and letters shall be a minimum height and a minimum stroke width as dictated by Table 502.1. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure. Address numbers shall be maintained."

23. Section 502.1 Address identification. Add Table 502.1:

Table 502.1 Minimum Height and Stroke Width[a, b]

Distance from Centerline of Public Way (ft.)	Minimum Height (in)	Minimum Stroke Width (in)
Less than 100	4	½
100 to less than 200	6	¾
200 to less than 300	8	1
For each additional 100	Increase 2"	Increase ½"

a. Exterior suite identification, minimum height shall be four inches, and minimum stroke width shall be ½"

b. Interior suite identification, minimum height shall be two inches, and minimum stroke width shall be ¼"

24. Section 508.5.7 Fire Protection. Delete the last paragraph and inset in lieu thereof "Live/work units in buildings constructed in accordance with the *Windsor Heights Residential Code* shall be provided with smoke alarms complying with Section 310 of the *Windsor Heights Residential Code*."

25. Section 902.1 Pump and Riser Room Size. Add Subsections 902.1.5 and 902.1.5.1: "902.1.5 Fire sprinkler Riser Room. A fire sprinkler riser room shall be separated from the electrical room. The riser room shall have no electrical panels, devices, or apparatus inside the room other than the outlets or support equipment

(lighting) air compressor and heater required for the use by the fire sprinkler system or the fire alarm panel. Access to the fire sprinkler riser room shall not be accessed from the electrical room, but the electrical room may be accessed from the fire sprinkler riser room. 902.1.5.1 Fire Sprinkler Riser Signage. Signage as determined by the Fire Code Official shall be placed on the main sprinkler riser denoting a shunt trip has been installed."

26. Section 903.2 Where Required. Delete existing text, including all subsections and exceptions and insert: "Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in the *Windsor Heights Fire Code*."

27. Section 903.3.1 Standards. Add Subsection 903.3.1.4: "903.3.1.4 Fire Sprinklers for Canopies. A canopy covering a door that is required to be marked as an exit shall be required to have fire sprinklers installed outside that door if the canopy extends more than four feet out from the door and is 12 feet or less in height from the ground, regardless if the canopy is combustible or noncombustible. All canopies, regardless of height or construction type, that have vehicle access under them with door openings shall be required to have fire sprinklers installed under the entire canopy. Exception. If a building is not required by Code to have a fire sprinkler system, Section 903.3.1.4 does not apply."

28. Section 903.3.7 Fire Department Connections. Add Subsection 903.3.7.1: "903.3.7.1 Fire Department Connection Identification. A minimum of 110 candela weather proof strobe light suitable for cold weather use with a minimum of 75 candela at minus 30° shall be tied into the building fire alarm system and mounted directly above the Fire Department connection between seven feet and 10 feet in height from the ground, or as approved by the Code official, shall operate on a waterflow alarm."

29. Section 905.3 Required Installations. Add Subsection 905.3.8: "905.3.8 Additional Standpipe Systems. Additional standpipe systems may be added to new buildings or structures as deemed necessary by the Fire Code Official."

30. Section 906.3.1 Class A Fire Hazards. Add Subsection 906.3.1.1: "906.3.1.1 Minimum Sizes. Portable fire extinguishers for fire protection in low and moderate hazard occupancies shall be five-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in low or moderate hazard occupancy, a 10-pound ABC fire extinguisher shall be installed. Spacing is based on a 75-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in high hazard occupancies shall be 10-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher."

31. Section 906.3.2 Class B Fire Hazards. Add Subsection 906.3.2.1: "906.3.2.1 Minimum Sizes. Portable fire extinguishers for fire protection in low hazard occupancies shall be five-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a low hazard occupancy, a 10-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in moderate hazard occupancies shall be 10-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a moderate hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher. Portable fire extinguishers

for fire protection in high hazard occupancies shall be 20-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher with a fire sprinkler system, 30-foot travel distance with no fire sprinkler system. Other hazardous occupancies will refer to NFPA 10."

32. Section 907.1 General. Add Subsection 907.1.4: "907.1.4 Fire Alarm Control Panels (FACP). Each building shall have no more than one fire alarm control panel. Installation of the fire alarm control panel shall not exceed six feet in height, measured from the floor to the top of the control panel. Exception: Suppression system releasing panels are not required to meet the height requirement or the limitation on the number of panels."

33. Section 907.2 Where Required - New Buildings and Structures. Delete existing text, including all subsections and exceptions, and insert: "Approved fire alarm systems in new buildings and structures shall be provided in the locations described in the *Windsor Heights Fire Code*."

34. Section 907.6.4 Zones. Add Subsection 907.6.4.3: "907.6.4.3 Zone and Address Location Labeling. Fire alarm panels shall have all zones and address points plainly and permanently labeled as to their location on the outside of the panel or on an easily readable map of the building if no display screen is present."

35. Section 907.6.6 Monitoring. Delete existing text, including exceptions, and insert: "When required by this chapter, or the Code Official, an approved UL listed remote station in accordance with NFPA 72 shall monitor fire alarm systems to provide for the immediate and automatic notification of the Fire Department. Exception: Supervisory service is not required in one- and two-family dwellings."

36. Section 910.1 General. Add Exception: "Exception: The Code Official may require smoke removal equipment be installed if it is deemed necessary by the Code Official for the protection of life and property."

37. Section 912.2 Location. Add Subsection 912.2.3: "912.2.3 Fire Department Connection Height. The Fire Department connection shall be located not less than 18 inches from the bottom of the caps and not more than three feet from the top of the caps above the level of the adjacent grade or access level. The Code Official for just cause may grant deviation to this height."

38. Section 912.4 Access. Delete existing text and insert: "Immediate access to Fire Department connection shall be maintained at all times and without obstruction by fences, bushes, trees, walls, or any other objects for a minimum of a five-foot clear space on each side of the connection to include in front of and above the connection."

39. Section 1009.2 Continuity and Components. Add Item Number 11: "11. Concrete, asphalt, or other approved hard-surface exterior walking surfaces."

40. Section 1013.1 Where Required. Add at the end of the section: "Additional exit signs may be required at the discretion of the Fire Code Official to clarify an exit or exit access."

41. Section 1028.5 Access to a Public Way. Add at the end of the section: "Components of exterior walking surfaces shall be hard-surfaced."

42. Section 1301.1.1 Criteria. Delete "International" and insert in lieu thereof "Windsor Heights".

43. Section 1612.3 Establishment of Flood Hazard Areas. Insert: "City of Windsor Heights, Iowa" and "as adopted in City of Windsor Heights Code of Ordinances Chapter 185".

44. Section 1807.1.5 Concrete and Masonry Foundation Walls. Add Exception #2 and Table 1807.1.5: "2. Concrete and masonry foundation walls supporting buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table 1807.1.5.

Table 1807.1.5 Prescriptive Foundation Walls Supporting Light-Frame Construction[a, b, c]

Height of Foundation Wall[d]		Thickness of Foundation Wall		Reinforcement Size and Placement in Concrete Wall		Reinforcement Size and Placement in Masonry Wall[j, k]
Gross	Net[e]	Concrete[f]	Masonry[g]	Horizontal	Vertical	
≤8'	≤7'-8"	7.5"	8"	No. 4 bar within 12" of the top and bottom of the wall and at mid-height	No. 4 bar at 72" o.c. maximum	0.075 square inch bar at 96" o.c. vertically in cells fully grouted with Type M or S grout
>8'	>7'-8"	8"	Refer to R404.1.2	No. 4 bar at 24" o.c. maximum[h]	No. 4 bar at 20" o.c. maximum[i]	Refer to 1807.1.6

a. Concrete floor slab to be nominal 4" thick. If such floor slab is not provided prior to backfill, one 36" vertical No. 4 bar shall be embedded in the footing at maximum 84" o.c. spacing or a full depth nominal 2" depth x 4" width keyway shall be installed in the footing.

b. All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be 3" from the inside face of the wall and meet the provisions of chapters 18, 19, and 21 of the *International Building Code*.

c. Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the *International Building Code*. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.

d. Maximum foundation wall height is 10' gross and nine-foot eight-inch net.

e. Net foundation wall height measured from top of basement slab to top of foundation wall.

f. The thickness of concrete foundation walls supporting three floors shall be increased two inches.

g. The thickness of masonry foundation walls supporting three floors shall be increased four inches.

h. No. 5 bar at 24" o.c. maximum is an approved alternative.

i. No. 5 bar at 30" o.c. maximum is an approved alternative.

j. Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.

k. If masonry block is 12" nominal thickness, wall may be unreinforced."

45. Section 1809.5 Frost Protection, Exception 2. Delete "600" and insert in lieu thereof "1,000."

46. Section 1809.5.1 Frost Protection At Required Exits. Delete this section and insert in lieu thereof: "1809.5.1 Landing Frost Protection. Exterior landings required by Section 1010.1.4 to be at the same elevation on each side of the door shall be provided with frost protection."

47. Section 1809.7 Prescriptive Footings For Light-Frame Construction. Delete existing Table 1809.7 and all footnotes and insert:

Table 1809.7 Prescriptive Footings Supporting Walls of Light-Frame Construction[a, b, c, d, e, f]

Number of Floors Supported By The Footing[g]	Thickness Of Foundation Walls (in), Concrete	Thickness of Foundation Walls (in), Concrete Block	Width of Footing (in)	Thickness of Footing (in)
1	8	8	16	8
2	8	8	16	8
3	10	12	18	12

a. Depth of perimeter footings shall be at least 42 inches below final grade.

b. The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.

c. Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than six feet on center.

d. Spread footings shall have a minimum of 2 - #4 continuous horizontal reinforcement bars.

e. Foundation walls shall have a minimum of #4 reinforcement bars 18 inches on center in each direction.

f. Trench footings are allowed as a continuous eight-inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.

g. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor."

48. Section 3109.1 General. Delete "International" and insert in lieu thereof "Windsor Heights."

155.04 RESIDENTIAL CODE. The provisions of the *International Residential Code for One-and Two-Family Dwellings*, 2024 Edition, as published by the International Code Council, except for Part V - Mechanical, Part VI - Fuel Gas, Part VII - Plumbing, and Part VIII - Electrical; and with the addition of Appendix Chapters BC, BF, and BO, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions:

1. Section R101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Windsor Heights Residential Code*, hereinafter referred to as "this Code"."

2. Section R101.2 Scope. Delete existing text and insert: "The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of the following:

1. Detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height.

2. Live/work units located in one- and two-family dwelling units that comply with the requirements of Section 508.5 of the *Windsor Heights Building Code*.

3. Owner-occupied lodging houses with five or fewer guestrooms.

4. A care facility with eight or fewer persons receiving custodial care within a dwelling unit.

5. A care facility with eight or fewer persons receiving medical care within a dwelling unit.

6. A daycare facility for eight or fewer persons of any age receiving care within a dwelling unit."

3. Section 104.2.2.7 Alternative materials, Design and Methods of Construction and Equipment. Add Subsection 104.2.2.7: "104.2.2.7 Manufactured Home Installation. The *Iowa Administrative Code* 481, Chapters 321 and 322 are hereby adopted for installation of mobile (manufactured) homes."

4. Section R105.2 Work exempt from Permit. Building Item #2. Delete existing text.

5. Section R105.2 Work Exempt from Permit. Building Item #5. Delete existing text and insert: "Sidewalks and driveways located entirely on private property.

6. Section R106.1 Submittal Documents. Delete "in two or more sets, or in a digital format where allowed by the Building Official,"

7. Section R106.3.1 Approval of Construction Documents. Delete this section.

8. Table R301.2(1) Climatic and Geographic Design Criteria. Amend Table 301.2(1) to include the following values:

Ground Snow Load: ..... 33 PSF

Wind Speed (mph): 115

Topographic effects:..... NO

Special wind region:..... NO

Wind-borne debris zone: ..... NO

Seismic Design Category: ..... A

Weathering: ..... Severe

Frost line depth:..... 42"

Termite: ..... Moderate to Heavy

Winter Design Temp: .....0°F

Ice Barrier Underlayment Required: .....YES

Flood Hazards: .....As adopted in Chapter 185 of this Code.

Air Freezing Index: 1800

Mean Annual Temp: .....48.6°F

Elevation: .....876 ft

Altitude correction factor: 0.98

Coincident wet bulb: .....74°F

Indoor winter design dry-bulb temp:.....70°F

Outdoor winter design dry-bulb temp: .....-4°F

Heating temperature difference:.....74°F

Latitude: .....41°N

Daily range:.....M

Indoor summer design relative humidity: 50%

Indoor summer design dry-bulb temp: .....75°F

Outdoor summer design dry-bulb temp: .....90°F

Cooling temperature difference: .....15°F

9. Section R309.1 Townhouse Automatic Fire Sprinkler Systems. Add Exception #2: "2. Townhouse structures that contain eight or fewer dwelling units and in which the gross finished and unfinished floor area on all levels, including basements and exclusive of attached garages, is less than 18,000 square feet."

10. Section R309.2 One- and Two-Family Dwellings Automatic Fire Systems. Add Exception #2: "2. Dwellings that do not exceed 8,000 square feet or more of enclosed floor space on all levels, including basements and exclusive of attached garages."

11. Section R318.3.2 Floor Elevations at Other Exterior Doors, Exception. Delete "two" and insert in lieu thereof "three"

12. Section R318.7.6 Landings for Stairways, Exception 3. Delete "two" and insert in lieu thereof "three"

13. Section R325.2 Bathrooms. Delete existing text and insert: "Bathrooms, water closet compartments, and other similar rooms shall be provided with natural or artificial light and a mechanical ventilation system. The minimum ventilation rates shall be 50 CFM for intermittent ventilation or 20 CFM for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside of the dwelling.

14. Section R328.1 General. Delete "International" and insert in lieu thereof "Windsor Heights".

15. Section R403.1 General. Add Exception: "Structures supported on wood skids with an area no more than 240 square feet and an eave height no more than eight feet."

16. Section R403.1.1 Minimum Size. Add Subsection R403.1.1.1 and Table R403.1.1.1: "R403.1.1.1 Conventional Light-Frame Wood Construction. Footings supporting concrete foundations and buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table R403.1.1.1.

Table R403.1.1.1 Prescriptive Footings Supporting Walls of Light-Frame Construction[a, b, c, d, e, f]

Number of floors supported by the footing[g]	Width of footing (in)	Thickness of footing (in)
1	16	8
2	16	8
3	18	12

a. Minimum 2,000 PSF soil bearing pressure. Soil bearing pressures less than 2,000 PSF shall use Tables R403.1(1) through R403.1(3) and Figure R403.1(1) or R403.1.3, as applicable.

b. Depth of perimeter footings shall be at least 42 inches below final grade.

c. The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.

d. Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than six feet on center.

e. Spread footings shall have a minimum of 2 - #4 continuous horizontal reinforcement bars.

f. Trench footings are allowed as a continuous eight-inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.

g. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor."

17. Section R403.1.4.1 Frost protection, Exception #1. Delete "600" and insert in lieu thereof "1,000".

18. Section R404.1.3.2 Reinforcement for foundation walls. Add Subsection R404.1.3.2.3 and Table R404.1.3.2.3: "R404.1.3.2.3 Foundation walls for conventional light-frame wood construction. Concrete and masonry foundation walls supporting buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table R404.1.3.2.3.

Table R403.1.1.1 Prescriptive Foundation Walls Supporting Light-Frame Construction[a, b, c]						
Height of foundation wall[d]		**Thickness of foundation wall**		**Reinforcement size and placement in concrete wall**		**Reinforcement size and placement in masonry wall[j,k]**
Gross	Net[e]	Concrete[f]	Masonry[g]	Horizontal	Vertical	
≤8’	≤7’-8”	7.5”	8”	No. 4 bar within 12” of the top and bottom of the wall and at mid-height	No. 4 bar at 72” o.c. maximum	0.075 square inch bar at 96” o.c. vertically in cells fully grouted with Type M or S grout
>8’	>7’-8”	8”	Refer to R404.1.2	No. 4 bar at 24” o.c. maximum[h]	No. 4 bar at 20” o.c. maximum[i]	Refer to R404.1.2

a. Concrete floor slab to be nominal four inches thick. If such floor slab is not provided prior to backfill, one 36 inches vertical No. 4 bar shall be embedded in the footing at maximum 84 inches o.c. spacing or a full depth nominal two inches depth by four inches width keyway shall be installed in the footing.

b. All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be three inches from the inside face of the wall and meet the provisions of Chapters 18, 19, and 21 of the *International Building Code*.

c. Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the *International Building Code*. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.

d. Maximum foundation wall height is 10 feet gross and nine-foot eight-inch net.

e. Net foundation wall height measured from top of basement slab to top of foundation wall.

f. The thickness of concrete foundation walls supporting three floors shall be increased two inches.

g. The thickness of masonry foundation walls supporting three floors shall be increased four inches.

h. No. 5 bar at 24 inches o.c. maximum is an approved alternative.

i. No. 5 bar at 30 inches o.c. maximum is an approved alternative.

j. Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.

k. If masonry block is 12 inches nominal thickness, wall may be unreinforced.”

19. Chapter 11 Energy Efficiency. Delete all sections except N1101.1.

20. Section N1101.1.1 Criteria. Add Subsection N1101.1.1: "N1101.1.1 Criteria. Buildings regulated by this Code shall be designed and constructed in accordance with the *Windsor Heights Energy Conservation Code*."

21. Section BC101.2 Conditions. Delete Items #3, 5, and 7.

155.05 MECHANICAL CODE. The provisions of the *Iowa Administrative Code* 481 - 426 with the addition of Chapter 1, except Sections 101 and 102, of the *International Mechanical Code*, 2024 Edition, published by the International Code Council, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Windsor Heights Mechanical Code*. References to section numbers will be to sections in the *International Mechanical Code* as adopted and amended by the State.

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Windsor Heights Mechanical Code*, hereinafter referred to as "this Code."

2. Section 103.1 Creation of Agency. Insert "Department of Building Safety."

3. Section 105.4.1 Approved Construction Documents. Delete this section.

4. Section 106.2 Retention of Construction Documents. Delete the final sentence of this section.

5. Section 114.4 Violation Penalties. Delete existing text and insert: "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 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."

155.06 PLUMBING CODE. The provisions of the *Iowa Administrative Code* 481 - 425 with the addition of Chapter 1, except Sections 101 and 102, of the *Uniform Plumbing Code*, 2024 Edition, as published by the International Association of Plumbing and Mechanical Officials, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Windsor Heights Plumbing Code*. References to the Code sections will be to sections of the *Uniform Plumbing Code* as adopted and amended by the State.

1. Section 104.4.1 Approved Plans or Construction Documents. Delete this section.

2. Section 104.4.6 Retention of Plans. Delete the final sentence of this section.

3. Section 104.5 Fees. Delete "and as set forth in the fee schedule, Table 104.5."

4. Section 104.5.3 Fee Refunds. Delete existing text and insert: "The Authority Having Jurisdiction is authorized to establish a refund policy."

5. Section 105.2.6 Reinspections. Delete "To obtain reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table 104.5."

155.07 ELECTRICAL CODE. The provisions of the *Iowa Administrative Code* 481 - 404.3 are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Windsor Heights Electrical Code*:

1. Reserved.

155.08 ENERGY CONSERVATION CODE. The provisions of the *International Energy Conservation Code* as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in the *Windsor Heights Building Code* and these regulations shall be known as the *Windsor Heights Energy Conservation Code*. Construction or work for which a permit is required shall be subject to third party inspections. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. Any portion that does not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

155.09 EXISTING BUILDING CODE. The provisions of the *International Existing Building Code*, 2024 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Windsor Heights Existing Building Code*, hereinafter referred to as "this Code"

2. Section 106.1 General. Delete "in two or more sets, or in a digital format where allowed by the Code Official,"

3. Section 106.3.1 Approval of Construction Documents. Delete this section.

4. Section 114.4 Failure to Comply. Delete existing text and insert: "Any person who shall continue any work regulated by this Code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

5. Section 302 General Provisions. Add Subsection 302.6: "302.6 Fire Protection. Existing buildings containing R-2 Occupancies shall be made to comply with the *Local Fire Code* Section 903.2.8 within two years of any of the following situations:

    1. Fire damage to three or more dwelling units, not including smoke or water damage or other damage from firefighting operations.

    2. Issuance of a Building Permit for a Level III alteration as identified in Chapter 6 of the *International Existing Building Code*.

6. Section 303.2 Addition to a Group E Occupancy. Delete existing text and insert: "Where an addition is added to an existing Group E Occupancy located in an area where the shelter design wind speed for tornadoes is 250 MPH in accordance with Figure 304.2 (1) of ICC 500, and the occupant load of the addition is 50 or more, the addition shall have a storm shelter constructed in accordance with Chapters 1 through 5 and 8 of ICC 500.

    Exceptions:

        Group E daycare facilities.

        Group E Occupancies accessory to place of religious worship.

        Additions meeting the requirements for shelter design in ICC 500.

The aggregate area of all additions within a 10-year period shall be factored when determining the requirements of this section."

7. Section 303.2.1 Design Occupant Capacity. Delete existing text, exceptions excepted, and insert in lieu thereof "The required design occupant capacity of the storm shelter shall include all of the buildings on the site, and shall be the greater of the total occupant load of the classrooms, vocational rooms, and offices in the Group E Occupancy or the occupant load of any indoor assembly space that is associated with the Group E Occupancy. If multiple separate indoor assembly spaces are present, only the greatest indoor assembly space occupant load must be included."

155.10 SWIMMING POOL AND SPA CODE. The provisions of the *International Swimming Pool and Spa Code*, 2024 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Windsor Heights Swimming Pool and Spa Code*, hereinafter known as "this Code"

2. Section 105.4.1 Approved Construction Documents. Delete this section.

3. Section 107.1 Construction Documents. Delete "in two or more sets".

4. Section 107.2 Retention of Construction Documents. Delete the final sentence of this section.

5. Section 113.4 Violation Penalties. Delete existing text and insert: "Any person who shall violate a provision of this Code, or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair a pool or spa 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."

6. Section 114.4 Failure to Comply. Delete the final sentence of this section and insert in lieu thereof: "Any person who shall continue any work regulated by this Code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

7. Section 202 Pool. Delete existing text and inset: "Any structure intended for swimming or recreational bathing that contains water more than 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas.

155.11 ADOPTION OF INTERNATIONAL FIRE CODE. The *International Fire Code* (IFC), 2024 Edition, is hereby adopted by the Council for the purpose of prescribing regulations governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life and property in the occupancy of buildings and premises in the City; providing for the issuance of permits for hazardous use or operations; that a certain document known as the *International Fire Code*, including Appendix Chapters B, C, D, and I as published by the International Fire Code Council, being particularly the 2024 Editions thereof and the whole thereof, save and except those portions as are herein after deleted, modified, or amended by Section 155.11, one copy of the local amendments which have been and are now filed in the office of the Clerk and one complete set of the *International Fire Code*, 2024 Edition, to include local amendments filed in the fire administrative offices, and the same are hereby adopted and incorporated as fully set out at length herein, and from the date on which this chapter shall take effect, the provision thereof shall be controlling within the limits of the City.

1. Duties of Fire Department. The *International Fire Code* as adopted and amended herein shall be enforced by the Fire Prevention Bureau of the City, which is hereby established and which shall be operated under the supervision of the Fire Chief.

2. Storage Of Flammables; Districts Established. Establishment of limits and districts referred to and placed upon certain sections of the *International Fire Code*, 2024 Edition, are as follows:

The limits referred to in Section 5806.2, in which flammable cryogenic fluids storage in stationary containers are prohibited, are hereby established as follows: the entire City except LI – Limited Industrial District.

The limits that are placed on Chapter 57 in which outside aboveground storage of flammable or combustible liquids is restricted are hereby established as follows: the entire City except as allowed as a principal, accessory, or conditional use in the LI - Limited Industrial District. Exceptions:

An aggregate amount of 1,000 gallons or less may be stored above-ground on a premises if used exclusively for heating fuel oil. A permit is required and the proposed installation must be approved by the Code Official prior to the issuance of a permit.

Any new above-ground installations of Class I liquids shall have an aggregate total of not more than 1,100 gallons; Class II liquids shall have an aggregate total of not more than 5,000 gallons; and storage of more than 1,100 gallons shall be restricted to an approved vaulted tank above-ground where allowed as a principal, accessory, or conditional use in the LI Zoning District; or 10,000 gallons or less of Class I or Class II liquids on construction sites, per legal lot or contiguous lots under common ownership. A permit is required and the proposed installation must be approved by the Code Official prior to the issuance of a permit.

Any new outside installation of a generator shall be limited to a maximum of 1,500 gallons of Type II fuel in a NFPA/UL compliant sub-base tank; quantities greater than 1,500 gallons, but less than 5,001 gallons of a Type II fuel shall be stored in an approved vaulted tank. Exception: Fuel storage requirements for generator use only shall not be limited to only in LI District.

The limits that are placed on Chapter 57 in which new bulk plants and terminals for flammable or combustible liquids are prohibited are hereby established as follows: the entire City.

The limits that are placed on Section 6104.2 (see Section 155.11 "Amendments to *International Fire Code*," of this chapter) in which storage of liquefied petroleum gases is to be restricted are hereby established as follows: the entire City.

The limits that are placed on Section 5601.1 in which storage of explosives and blasting agents is to be restricted are hereby established as follows: the entire City.

The limits that are placed on Section 5301.1 Exception 2, in which the storage of compressed natural gas is prohibited, are hereby established as follows: the entire City with the exception of LI District.

3. Amendments to International Fire Code. The *International Fire Code* is amended and changed in the following respects.

Chapter 1 Section 101.1. Insert in Section 101.1 "the City of Windsor Heights."

Section 103.1.1. Add section 103.1.1 Definitions.

Wherever the word "jurisdiction" is used in the *International Fire Code*, it is the City of Windsor Heights, Iowa.

Where the party responsible for the enforcement of the *International Fire Code* is given a title of "Fire Marshal", and the following definition: "Fire Marshal is the Code Official of the Fire Prevention Bureau" or a duly authorized representative.

Whenever the words "Department of Fire Prevention" are used they shall be held to mean "Fire Prevention Bureau."

The word "shall" is mandatory, and the word "may" is permissive.

Section 113.4. Amend Section 113.4 Violation Penalties. Section 113.4 to read as follows: Persons who shall violate a provision of this Code, or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under the provisions of this Code, shall be guilty of a misdemeanor crime punishable by a fine not exceeding $500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 114.4. Amend Section 114.4 Failure to Comply. Section 114.4 to read as follows: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine as provided for in Section 155.11.10.

Reinspection Fees. See the City Fee Schedule.

Section 108.7 Mitigation Reimbursement Fees. Add Section 108.7 Mitigation Reimbursement Fees. Reimbursement fees that are actual and necessary expenses incurred in carrying out the mitigation of specialized emergencies including, but not limited to, hazardous materials, specialized rescue, and crime scenes (including arson) shall be invoiced to the responsible person, firm, or corporation. An available fee schedule shall be reviewed and posted annually by the Fire Chief's office. Fees may include, but not be limited to, personnel compensation, apparatus use, equipment use, and specialized contract labor associated with the mitigation of the specialized emergency.

Section 108.8 Negligent False Alarms. Add Section 108.8 Negligent False Alarms. A negligent false alarm shall be determined by the Fire Chief, or designee, as an alarm due to cleaning, construction, maintenance, repair, or any other act determined to be negligent in nature. Negligence shall be further defined as any activity where the life safety system shall be placed on test prior to the activity being performed or any careless act causing an activation of an alarm system. The fee schedule is defined in the City Fee Schedule.

Section 108.9 Excessive False Alarms. Add Section 108.9 Excessive False Alarms. Because a false alarm for security, intrusion, robbery, and other non-fire causes usually requires from one to three police officers to respond in individual vehicular units, depending on the type of alarm, and a false alarm for fire suppression or other

firefighting incidents usually requires multiple firefighters from the Fire Department to respond in multiple and specialized firefighting equipment, depending on the type of alarm, the City shall assess a service charge fee to any alarm user that generates an unnecessary number of false alarm responses during a calendar year as listed below ("false alarm fee."). The alarm user shall pay the City the assessed false alarm fee within 20 days of the date an invoice is given to the alarm user for any false alarm created by the alarm user's alarm system in accordance with the City Fee Schedule.

After the second false alarm, the alarm user shall receive a written notice from the Fire Chief. The notice shall require that, by a specified date, the alarm user shall have their alarm system inspected by an alarm company and alarm user shall review operational procedures with the alarm system operator and any other individuals having access to the use and operation of the alarm system. Notice or billing from the City to any alarm user shall be deemed to have been given or rendered on the date such notice or billing is deposited in the U.S. mail, first class postage, addressed to the alarm user at the address shown for the alarm user. The alarm user shall notify the applicable Fire Chief, in writing, after the inspection by the alarm company has been completed and shall provide to the Fire Chief a copy of any report of service, repair, or inspection of the alarm system given by the alarm company. An alarm company providing an inspection or repair of an alarm system shall notify the Fire Chief in advance of such service. The alarm company shall be assessed a fee of $100.00 by the City when the Police Department or Fire Department respond to a false alarm and it is determined by the City that an on-site employee of the alarm company directly caused the false alarm. In such a circumstance, the false alarm shall not count against the alarm user.

Section 116 Life Safety Plans. Add Section 116 Life Safety Plans. All life safety plans submitted for review to include, but not limited to, fire sprinkler system plans, fire alarm system plans, and clean agent system plans shall be designed and stamped by a person with a minimum of a NICET III Certification, fire protection engineer, qualified engineer with two years demonstrated experience in life safety system design or equivalency as determined by the Code Official. Plan approval will be based upon the plans submitted by the equipment supplier utilizing the above requirements.

Add Section 116.1. All Life Safety Plans submitted to the Windsor Heights Fire Department will require a technical assistance review from a third-party firm. Life Safety Plans submitted that currently bear the stamp of a licensed Fire Protection Engineer shall be exempt from this requirement.

Section 117 Inspection Tags. Add Section 117 Inspection Tags. Tags for inspection of fire suppression systems, fire extinguishers, and fire alarm systems are required to be purchased from the West Des Moines Fire Prevention Bureau for use in the City as part of the West Metro licensing for fire protection contractors.

Chapter 2 Section 202 Definitions. Add to Section 202:

Business is a commercial enterprise or establishment that is not part of a home occupation, for the purpose of the *Fire Code*.

Commercial buildings or structures are buildings that are used for purposes other than detached dwellings, for the purpose of the *Fire Code*.

Condominium is a building or structure of residential occupancies containing sleeping units, or more than two dwelling units where the occupants are

primarily permanent in nature, having public space, unless defined as a townhouse, for purpose of the *Fire Code*.

Fire Prevention Bureau is the Fire Department of the jurisdiction.

Home occupation is any occupation or profession conducted solely by the resident occupants in their place of abode, involving primarily service and limited sale of commodities upon the premises, for the purposes of the *Fire Code*.

Licensed daycare is a daycare that is licensed with the State.

Licensed Fire Alarm Monitoring Service is a business that supplies or contracts with a UL listed remote station monitoring service.

WestCom is the 9-1-1 dispatch center that serves the City.

Amend Section 202. Amend the following definitions:

[M] Commercial cooking appliances are appliances used in a commercial food service establishment for heating or cooking food, and which produce grease laden vapors, steam, fumes, smoke, or odors that are required to be removed through a local exhaust ventilation system. Such appliances include deep fat fryers; upright broilers; griddles; broilers; steam-jacketed kettles; hot-top ranges; under-fired broilers; (charbroilers); ovens; barbecues; rotisseries; residential stoves or ovens and similar appliances. For the purposes of this definition, a food service establishment shall include any commercial building, or a portion thereof, used for the preparation and serving of food including for employee purposes.

Dwelling is a detached building on a building site designed for and used exclusively for residential purposes by one and two families and containing one or two dwelling units, for the purpose of the *Fire Code*.

Dwelling unit is one room or rooms connected together and containing independent cooking, sleeping, and bathroom facilities, constituting a separate, independent housekeeping establishment for one family, for owner occupancy, or rental or lease to the same family for a time period of more than 31 consecutive days and physically separated from any other dwelling unit by a wall or yard.

Chapter 3 General Precautions Against Fire.

Add Section 307.2.1.1 Responsible Agencies for Open Burning. Within the City limits; in Polk County, approval from Polk County Water, Air, and Waste Management Department and the Code Official; in Dallas County, approval from State IDNR and the Code Official; future annexed land shall use the County Water, Air, and Waste Management Department of record or IDNR and the Code Official.

Amend Section 307.4.1: Bonfires are prohibited within the City.

Amend Section 307.4.2: Open, uncontained recreational burning is prohibited within the City. Recreational Fires are permitted when they follow the requirements of added Section 307.6.

Add Section 307.6: Outdoor Recreational Fires are permitted when they meet the following requirements:

Contained in a fireplace or grill, defined by the following requirements:

Fireplace: A structure, with an open recess at the base or a chimney or stack, with a grate for food preparation and provisions for under-fire air, for holding an outdoor fire off the ground.

Fuel shall consist of wood or charcoal only.

Firewood shall be larger than two inches in diameter, and no longer than three feet in length. This requirement shall not apply to wood used or needed to start the fire (kindling).

Device shall be no closer than 10 feet from any structure.

Wood or charcoal within the device, shall not sit more than three feet above the base of the device.

Smoke shall not exit the user's property at or below the user's roof line.

Shall not be used to dispose of yard waste, leaves, or twigs.

(2) Grill. A cooking utensil with a grate for food preparation and provisions for under-fire air, for holding an outdoor fire off the ground.

Fuel shall consist of wood or charcoal only.

Firewood shall be larger than two inches in diameter, and no longer than three feet in length. This requirement shall not apply to wood used or needed to start the fire (kindling).

Device shall be no closer than 10 feet from any structure.

Wood or charcoal within the device, shall not sit more than three feet above the base of the device.

Smoke shall not exit the user's property at or below the user's roof line.

Shall not be used to dispose of yard waste, leaves, or twigs.

Add Section 308.1.11 Open Flame Cooking Devices. Replace with: No barbecue grills or other devices which produce ashes or embers shall be operated or stored within 20 feet of multi-story buildings such as apartment buildings and condominiums. A maximum of one 20# propane cylinder attached to the cooking device shall be allowed. Exception: One- and two-family dwellings and townhomes. Cooking devices or the propane cylinders shall not be stored inside the living unit of apartment buildings or condominiums.

Chapter 5 Fire Service Features.

Add Section 507.5.1.2 Hydrant for Fire Department Connections. Buildings equipped with an automatic fire sprinkler system with Fire Department connections installed per NFPA 13 shall have a fire hydrant within 100 feet of the Fire Department connections.

Exception: The distance shall be permitted to exceed 100 feet where approved by the Fire Code Official.

Chapter 9 Fire Protection Systems.

For the purposes of this section, "story" shall be defined as any level of a structure, whether above or below grade capable of occupancy.

Open corridors or hallways shall be required to have fire sprinklers installed in them when the building they are constructed in is required by this Code to have a fire sprinkler system.

An approved complete automatic fire extinguishing system shall be installed on all levels (including wood attics and wood cocklofts, but not wood attics and wood cocklofts in one- and two- family dwellings) in all buildings and structures erected from and after the effective date of the ordinance codified by this chapter, in which the gross square floor area exceeds the amounts specified in the following tables. An "approved automatic fire extinguishing system" includes, but is not limited to, a complete automatic fire sprinkler system. The following sections requiring complete automatic fire sprinkler systems shall install the fire sprinkler system following NFPA 13 standards unless otherwise noted. Alternative automatic extinguishing systems may be used if, in the opinion of the Code Official the same life safety and property conservation measures are equivalent to the NFPA standard listed in this Code.

Delete Sections 903.2.1, 903.2.1.1, 903.2.1.2, 903.2.1.3, 903.2.1.4, 903.2.1.5, 903.2.2, 903.2.3, 903.2.4, 903.2.5, 903.2.5.1, 903.2.5.2, 903.2.5.3, 903.2.6, 903.2.7, 903.2.8, 903.2.9, 903.2.9.1, 903.2.9.2.

Suppression Type		
Add Section 903.2.1 Group A to Read as Follows: Group A: Or as Required by 903.2.1.7		
NFPA 13	A-1. Building or structures, or portions thereof, having an assembly use, usually with fixed seating, intended for the production and viewing of the performing arts or motion pictures including, but not limited to: See IFC Occupancy Classification definition A-1	
NFPA 13	1. Occupant load of 299 or less	6,000 sq/ft
NFPA 13	2. Occupant load of 300 or more	0
	A-2. Building or structures, or portions thereof, having an assembly use intended for food or drink consumption, including, but not limited to: See IFC Occupancy Classification definition A-2	
NFPA 13	1. Occupant load of 49 or less	1,500 sq/ft
NFPA 13	2. Occupant load of 50 or more	0 sq/ft
	A-3. Building or structures, or portions thereof, having an assembly use intended for worship, recreation, or amusement and other assembly uses not classified elsewhere in group A, including, but not limited to: See IFC Occupancy Classification definition A-3	
NFPA 13	1. Occupant load of 299 or less	6,000 sq/ft
NFPA 13	2. Occupant load of 300 or more	6,000 sq/ft
	A-4. Building or structures, or portions thereof, having an assembly 13 use intended for viewing of indoor sporting events and activities with spectator seating, including, but not limited to: See IFC Occupancy Classification definition A-4	
NFPA 13	1. Occupant load of 299 or less	6,000 sq/ft
NFPA 13	2. Occupant load of 300 or more	4,500 sq/ft
NFPA 13	A-5. Building or structures, or portions thereof, having an assembly use intended for participation in or viewing outdoor activities including, but not limited to: See IFC Occupancy Classification Definition A-5 and IFC Section 903.2.1.5 for areas to be provided with protection.	1,000 sq/ft

Suppression Type		
Add Section 903.2.2 Group B to Read as Follows: Group B: Or as Required by 903.2.2.1 or 903.2.2.2		
NFPA 13	B. Building or structures, or portions thereof, used for office, professional, or service type transactions, including storage of records and accounts. Business occupancies shall include, but not be limited to: See IFC Occupancy Classification definition B.	6,000 sq/ft

Suppression Type		
Add Section 903.2.3 Group E to Read as Follows: Group E:		
NFPA 13	Building or structures, or portions thereof, used by six or more persons at any one time for educational purposes.	0 sq/ft
NFPA 13	A licensed daycare is any buildings or structures, or portions thereof, used for educational, supervision, or personal care services for more than five children older than 2 ½ years of age shall be classified as an E Occupancy.	0 sq/ft

Suppression Type		
Add Section 903.2.4 Group F to Read as Follows: Group F: Or as Required by 903.2.4.1, 903.2.4.2, or 903.2.4.3		
NFPA 13	F-1. Moderate-hazard factory and industrial occupancies including factory and industrial uses not classified as Group F Division 2 Occupancies, shall include but not be limited to: See IFC Occupancy Classification definition F-1.	2,500 sq/ft
NFPA 13	F-2. Low-hazard factory and industrial occupancy uses that involve the fabrication or manufacturing of noncombustible materials which during finishing, packing, or processing do not involve a significant fire hazard shall include but not be limited to: See IFC Occupancy Classification definition F-2.	15,000 sq/ft

Suppression Type		
Add Section 903.2.5 Group H to Read as Follows: Group H		
NFPA 13	H-1. Building or structures, or portions thereof, that pose a detonation hazard in excess of those listed in Table 5003.1.1 (See 2015 IBC) shall include but not be limited to: See IFC Occupancy Classification definition H-1.	0 sq/ft
NFPA 13	H-3. Building or structures, or portions thereof, which contain materials that readily support combustion or pose physical hazard in excess of those listed in Table 5003.1.1 (See 2015 IBC) shall include but not be limited to: See IFC Occupancy Classification definition H-3.	0 sq/ft
NFPA 13	H-4. Building or structures, or portions thereof, which contain materials that are health hazards in excess of those listed in Table 5003.1.1 (See 2015 IBC) shall include but not be limited to: See IFC Occupancy Classification definition H-4.	0 sq/ft
NFPA 13	H-5. Semiconductors fabrication facilities and comparable research and development areas in which production materials are used, and s.f. the aggregate quantity of material is in excess of those listed in Tables 5003.1.1 (See 2015 IBC). Such facilities and areas shall be designed and constructed in accordance with Section 415.10 of IBC. Design of the sprinkler system shall not be less than Table 903.2.5.2.	0 sq/ft
NFPA 13	FPA Pyroxylin Plastics. Buildings or structures, where cellulose nitrate film or pyroxylin plastics are manufactured, stored, or handled in quantities exceeding 100 pounds.	0 sq/ft

Suppression Type		
Add Section 903.2.6 Group I to Read as Follows: Group I:		
NFPA 13D or NFPA 13R	I-1. Buildings or structures, or portions thereof, housing more than 16 persons, on a 24-hour basis, who, because of age, mental disability, or other reasons, live in a supervised residential environment but which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. A facility such as the above with five or fewer persons shall be classified as Group R-3. A facility such as the above with at least six and not more than 16 persons shall be classified as Group R-4.	0 sq/ft
NFPA 13	I-2. Buildings or structures, or portions thereof, used for medical, surgical, psychiatric, nursing, or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. A facility such as the above with five or fewer persons shall be classified as Group R-3. Childcare facility is any buildings or structures, or a portion thereof, which provides care on a 24-hour basis to more than five children, 2 ½ years of age or less, shall be classified as Group I-2.	0 sq/ft
NFPA 13	I-3. Buildings or structures, or portions thereof, which are inhabited by more than five persons who are under restraint or security. See IFC Occupancy Classification definition I-3 for type of condition.	0 sq/ft
NFPA 13	I-4. Buildings or structures, or portions thereof, which are occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3. Places of worship during religious functions are not included.	0 sq/ft
NFPA 13	Adult care facilities provide accommodations for less than 24 hours for more than five unrelated adults and provide supervision and personal care services. Childcare facilities provide supervision and personal care on less than a 24-hour basis for more than five children 2 ½ years of age or less.	0 sq/ft

Suppression Type		
Add Section 903.2.7 Group M to Read as Follows: Group M: Or as Required in 903.2.7.1, 903.2.7.2, or 903.2.7.3		
NFPA 13	Buildings or structures, or portions thereof, for the display and sale of merchandise, and involving stocks of goods, wares, or merchandise, incidental to such purposes and accessible to the public shall include, but not be limited to: See IFC Occupancy Classification definition Group M. (High-piled storage to refer to Chapter 32 IFC)	6,000 sq/ft

Suppression Type		
Add Section 903.2.8 Group R to Read as Follows: Group R:		
NFPA 13R in 4 stories or less, NFPA 13 in more than 4 stories, both systems to include attic space as NFPA 13	R-1. Hotels, motels, boarding houses (transient). (Occupy less than 30 days)	0 sq/ft
NFPA 13R in 4 stories or less, NFPA 13 in more than 4 stories, both systems to include attic space as NFPA 13	R-2. Apartment houses, condominiums, boarding houses (non-transient), convents, dormitories, fraternities, and sororities, monasteries.	0 sq/ft
NFPA 13R to include attic space as NFPA 13	Convents, dormitories, fraternities, and sororities, monasteries.	0 sq/ft
NFPA 13D	R-3. Dwellings.	8,000/ sq. ft.
NFPA 13D	R-3. Townhouse, 3 stories or less.	Per amended IRC
Townhouses that are not open on at least two sides are required to install fire sprinkler systems as set forth in the IFC, 2024 Edition.		
NFPA 13D or NFPA 13R	R-4. Residential care or assisted living facilities for more than five, but not more than 16 occupants, excluding staff.	0 sq/ft

Suppression Type		
Add Section 903.2.9 Group S to Read as Follows: Group S: Or as Required by 903.2.9.3 or 903.2.9.4		
NFPA 13	S-1. Moderate hazard storage occupancies including building or portions of buildings used for storage of combustible materials not classified as Group S, Division 2 or Group H Occupancies but not be limited to: See IFC Occupancy Classification definition Group S-1.	6,000 sq/ft
NFPA 13	NFPA Repair garages or service stations	3,500 sq/ft
NFPA 13	Bulk storage of tires	20,000 cu ft
NFPA 13	S-2. Low-hazard storage occupancies, including buildings or portions of buildings, used for storage of noncombustible materials, but not be limited to: See IFC Occupancy Classification definition Group S-2	15,000 sq/ft

Suppression Type		
Add Section 903.2.10.3 Group U to Read as Follows: Group U:		
NFPA 13	Private garages, carports, sheds, and agricultural buildings	N/A

Add Section 903.3.1.4 Fire Sprinklers for Canopies. A canopy covering a door that is required to be marked as an exit shall be required to have fire sprinklers installed outside that door if the canopy extends more than four feet out from the door and is 12 feet or less in height from the ground, regardless if the canopy is combustible or noncombustible. All canopies, regardless of height or construction type, that have vehicle access under them with door openings shall be required to have fire sprinklers installed under the entire canopy.

Exception. If a building is not required by Code to have a fire sprinkler system, Section 903.3.1.4 does not apply.

Add Section 903.3.7.1 Fire Department Connection Identification. A minimum of 110 candela weatherproof strobe light suitable for cold weather use with a minimum of 75 candela at minus 30 degrees shall be tied into the building fire alarm system and mounted directly above the Fire Department connection between seven feet and 10 feet in height from the ground or as approved by the Code Official.

Add Section 903.7 Fire Sprinkler Riser Room. A fire sprinkler riser room shall be separated from the electrical room. The riser room shall have no electrical panels, devices, or apparatus inside the room other than the outlets or support equipment (lighting) air compressor and heater required for the use by the fire sprinkler system or the fire alarm panel. Access to the fire sprinkler riser room shall not be accessed from the electrical room, but the electrical room may be accessed from the fire sprinkler riser room.

Add Section 903.7.1 Fire Sprinkler Riser Signage. Signage as determined by the Code Official shall be placed on the main sprinkler riser denoting a shunt trip has been installed.

Standpipe Systems.

Add Section 905.3.8 Additional Standpipe Systems. Additional standpipe systems may be added to new buildings or structures as deemed necessary by the Code Official.

Portable Fire Extinguishers.

Amend Table 906.3 (1) Fire Extinguishers for Class A Fire Hazards to read as follows:

Portable fire extinguishers for fire protection in low and moderate hazard occupancies shall be five pounds ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in low or moderate hazard occupancy, a 10-pound ABC fire extinguisher shall be installed. Spacing is based on a 75-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in high hazard occupancies shall be 10-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher.

Amend Table 906.3(2) Fire Extinguishers for Flammable and Combustible Liquids with Depths of Less Than or Equal to 0.25 in. to read as follows:

Portable fire extinguishers for fire protection in low hazard occupancies shall be five-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a low hazard occupancy, a 10-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in moderate hazard occupancies shall be 10-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a moderate hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in high hazard occupancies shall be 20-pound ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20-pound ABC fire extinguisher shall be installed. Spacing is based on a 50-foot travel distance to the fire extinguisher with a fire sprinkler system, 30-foot travel distance with no fire sprinkler system. Other hazardous occupancies will refer to NFPA 10.

Fire Alarm and Detection Systems.

Add Section 907.1.4. Fire Alarm Control Panels.

Each building shall have no more than one Fire Alarm Control Panel (FACP).

Panel Height. Installation of the fire alarm panels shall not exceed six feet in height measured from the floor to the top of the panel.

Exception 1. Panel height may be altered by the Code Official.

Exception 2. Suppression system releasing panels are not required to meet limitation in the number of panels.

Amend section 907.2 Where Required General to read as follows: An approved addressable fire alarm system meeting provisions of this Code and NFPA 72 shall be installed when the gross square footage of a building is equal to or greater than the area as specified in Sections 903.2.1 through 903.2.11 inclusive, subject to the authority having jurisdiction or by Section 907.2, whichever shall be more restrictive.

Exceptions:

Buildings with eight or less initiating devices may use zoned systems provided only one device is used per zone. Each device shall have a plain English LCD (liquid crystal display). This alpha or numeric descriptor location is required to be reported to the WestCom Dispatch Center upon activation of the fire alarm system.

R-3 dwellings are not required to meet Section 907.2 of this Code.

Townhouses are required to be monitored only if a single fire sprinkler system is used for multiple units.

Add Section 907.2(a) Manual Fire Alarm Pull Boxes. Manual fire alarm pull boxes, "pull stations," shall be required where deemed necessary by the Code Official.

Add Section 907.2(b) Monitoring. All fire alarm systems shall be monitored by a UL listed monitoring station.

Add Section 907.2(c) Location. Each address point ID shall have an alpha or numeric descriptor location for the fire alarm system. This alpha or numeric descriptor location is required to be reported to the Fire Department dispatch center upon activation of the fire alarm system.

Add Section 907.2(d) Where Required. Where corridors or hallways are protected by fire sprinkler systems, they shall also be protected by smoke detection. Smoke detection shall be of the photoelectric type or as approved by the Code Official.

Amend Section 907.2.3 General to read as follows: Educational occupancies shall have a monitored fire alarm system. Upon notification, existing educational occupancies having existing fire alarm systems shall comply within two years to meet the monitoring of the fire alarm system.

Delete Sections 907.2.8 and 907.2.9.

Add Section 907.2.8 Group R General. Group R-1 and Group R-2 apartment houses, condominiums, and boarding houses (non-transient), convents, dormitories, fraternities, sororities, and monasteries; and Group R-4 shall have a monitored addressable fire alarm system. Upon adoption of this Fire Code, Group R-1; Group R-2 apartment houses, condominiums, and boarding houses (non-transient), convents, dormitories, fraternities, sororities, and monasteries that have existing automatic fire alarm systems shall comply within five years to have that fire alarm system monitored.

Amend Section 907.2.11 Single and Multi-Station Smoke Alarms to read as follows: Listed single- and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with provisions of this Code and the household fire warning equipment provision of NFPA 72. Smoke alarms shall be addressable with sounder bases and tied into the building fire alarm system as a supervisory signal only. Mini horns are not required if notification from a building fire alarm system is through the smoke alarms with sounder bases.

> Note: Section 907.2.11 only applies to R-1, R-2, R-4, and I-1 occupancies.

Add Section 907.6.4.3 Zone and Address Location Labeling. Fire alarm panels shall have all zones and address points plainly and permanently labeled as to their location on the outside of the panel or on an easily readable map of the building, if no display screen is present.

Amend Section 907.6.6 Monitoring General to read as follows: When required by this chapter, or the Code Official, an approved UL listed remote station in accordance with NFPA 72 shall monitor fire alarm systems to provide for the immediate and automatic notification of the Fire Department.

> Exception. Supervisory service is not required in one- and two-family dwellings.

Add Section 910.1 Exception 1. The Code Official may require smoke removal equipment be installed if it is deemed necessary by the Code Official for the protection of life and property.

Add Section 912.1.1 Fire Department Connection Height. The Fire Department connection shall be located not less than 18 inches from the bottom of the caps and not more than three feet from the top of the caps above the level of the adjacent grade or access level. The Code Official, for just cause, may grant deviation to this height.

Amend Section 912.4 Access around Fire Department Connections to read as follows: Immediate access to Fire Department connections shall be maintained at all times and without obstruction by fences, bushes, trees, walls, or any other objects for a minimum of a five-foot clear space on each side of the connection to include in front of and above the connection.

Section 1009 Accessible Means of Egress.

Add to Section 1009.2 Continuity and Components Item #11.

11. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

Section 1013 Exit Signs.

Add Section 1013.1.1 Additional Exit Signs. Exit signs may be required at the discretion of the Code Official to clarify an exit or exit access.

Chapter 33 Fire Safety During Construction and Demolition.

Amend Section 3307.1 Required Access. Construction sites shall have approved access roads as noted on the approved site plan to all areas of building or structure being constructed prior to actual construction taking place. Access roads to buildings or structures shall be constructed to provide vehicular access to within 50 feet of the building or structure with the middle of the building or structure no further than 150 feet from the access road. If the middle of the building or structure is more than 150 feet from the access road, temporary access roads shall be constructed around the building or structure where topography allows. It is highly recommended to install parking lots, if planned for, prior to the beginning of construction, for storage of construction material and easier access to the site. Access road surface material shall be of aggregate or a base layer of asphalt capable of meeting load limits under all weather conditions as outlined in Appendix D § D 102 of this Code for fire apparatus imposed loads unless otherwise approved by the Code Official. Vehicle access shall be maintained until permanent Fire Apparatus Access Roads are available.

Add Section 3312.2 Temporary Fire Department Connections. Where an automatic sprinkler system is being installed in a building under construction, temporary dry connections shall be made to a Fire Department connection as areas of the system are completed when combustible materials are being used for construction.

Add Section 3312.2.1 Temporary Fire Department Connection Identification. Where a temporary Fire Department connection is provided, temporary weatherproof signage shall also be provided to indicate what areas of the building under construction are served by the Fire Department connection.

Chapter 41 Temporary Heating and Cooking Operations.

Amend Section 4104.2 Open Flame Cooking Devices. Refer to Local Amendment 308.1.11

Chapter 50 Hazardous Materials - General Provisions.

Add Section 5003.14 Hazardous Substances, Notification, and Cleanup.

Scope. This section shall apply to the release of hazardous substances and the notification, cleanup, and recovery of costs associated with the mitigation of hazardous conditions.

Definitions. For the purpose of this section, these words have the following meaning:

"Cleanup" means the removal of the hazardous substances to a place where the waste will not cause any danger to persons or the environment, in accordance with the State statutes, rules, and regulations therefore, or the treatment of the material, as defined herein, to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable. "Cleanup" includes all actions necessary to contain, collect, identify, analyze, treat, disperse, remove, or dispose of a hazardous substance and to restore the sites from which the hazardous substance was cleaned up.

"Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance:

Within the City or onto City property located outside the City which, because of the quantity, strength, and toxicity of the hazardous substance, its mobility in the environment and its persistence, creates an immediate potential danger to the public health or safety; or

Onto land, into the waters within the State, or into the atmosphere, but outside the City, which, because of the quantity, strength, and toxicity of the hazardous substance, its mobility in the environment and its persistence, creates an immediate potential danger to the public health or safety of persons or property within the City.

Hazardous conditions include any accident involving hazardous materials required to be reported under Section 321.266 (4) of the *Code of Iowa*.

"Hazardous substance" means any substance or mixture of substance that presents a danger to the public health or safety or environment and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that, in confinement, generates pressure through decomposition, heat, or other means. The following are examples of substances which, in sufficient quantity, may be hazardous: acids; alkalis; explosives; fertilizers; heavy metals such as chromium, arsenic, mercury, lead and cadmium; industrial chemicals; paint thinners; paints; pesticides; petroleum products; poisons;

radioactive materials; sludges; and organic solvents. "Hazardous substance" includes 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 §307 of the *Federal Water Pollution Control Act* of 1976, as amended to January 1, 1977, or any hazardous material designated under §311 of the *Federal Water Pollution Control Act*, as amended to January 1, 1977, or any hazardous materials designated by the Secretary of Transportation under the *Hazardous Materials Transportation Act*, or any hazardous substance listed under the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980*.

"Person" is a natural person, their heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, or their successors or assigns, or any other similar legal entity or the agent of any of the aforesaid.

"Responsible person" means the person, whether the owner, agent, lessor, or tenant, in charge of the hazardous substance being stored, processed, or handled, or the owner or bailee transporting hazardous wastes or substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any persons or to the environment.

"Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce it in volume.

Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it nonhazardous.

Notifications. When a hazardous condition is created, the responsible person shall notify WestCom 911 Dispatch Center and the Fire Department immediately upon discovery of the condition, but in no instance later than 30 minutes after the discovery of the hazardous condition.

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 groundwaters, the Fire Chief, or the Chief's designee, may remove or provide for removal and the disposal of the hazardous substance at any time, unless the Fire Chief, or the Chief's designee, determines the removal will be properly and promptly accomplished by the responsible person. If the responsible party does not initiate and complete cleanup within the time designated by the Fire Department, the City may proceed to remedy the hazardous condition by performing the necessary cleanup services.

Loss, Burden, or Costs. A responsible person shall be liable to the City for all mitigation costs incurred by the City or other contract agencies, including, but not limited to, chemical damage, contamination of equipment, and the use of consumable materials. If charges for cleanup costs are not paid within 30 days after invoice, the City shall proceed to obtain payment by all legal means.

Chapter 56 Explosives And Fireworks.

Amend Section 5601.1 Scope to read as follows:

Add (a) the City deems the use of first-class and second-class consumer fireworks as a threat to public safety or a nuisance to landowners or persons with certain health conditions and therefore prohibits the use of first-class and second-class consumer fireworks in the City, except for on July 3, July 4, and December 31 in accordance with Section 727.2(4) of the *Code of Iowa*. It shall otherwise be unlawful, without a permit, for any person to offer for sale, expose for sale, sell at retail, or use or explode any explosives, explosive materials, first-class and second-class consumer fireworks within the corporate limits of the City of Windsor Heights.

Add Exception 10. Items considered as "Novelties" under State law.

Amend Section 5601.2.4 Financial Responsibility to read as follows: The applicant shall, at the time they makes their application for a permit, attach thereto a bond or Certificate of Insurance naming the applicant and the City as insured, in the sum of not less than $1,000,000.00, provided that the Code Official or the Council may, at their discretion, require a greater amount. The bond and insurance shall insure to the use and benefit of the City or any person who suffers damage either to person or property by reason of the display of fireworks.

Add Section 5601.4.1 Persons in charge of fireworks display or pyrotechnic special effect operations shall possess a valid PGI display fireworks operator certification or equivalent certification approved by the Code Official.

Amend Section 5605.1 Manufacture, Assembly, and Testing of Explosives, Explosive Materials, and Fireworks to read as follows:

General: It shall be unlawful to manufacture, assemble, and test explosives, explosive materials, and fireworks within the corporate limits of the City.

Exceptions.

The hand loading of small arms ammunition prepared for personal use and not offered for sale;

The mixing and loading of blasting agents at blasting sites in accordance with NFPA 495.

The use of binary explosives or plosophoric materials in blasting or pyrotechnic special effects applications in accordance with NFPA 495 or NFPA 1126.

Chapter 57 Flammable and Combustible Liquids.

Add Section 5704.2.9.7.10 Alternative Containment and Protection. All tanks that have a secondary tank of steel, concrete, or approved materials shall be capable of holding 110 percent of the product stored. A non-combustible roof and roof framework shall cover all open top secondary tanks exposed to weather.

Chapter 61 Liquified Petroleum Gases.

Amend Section 6104.2 Maximum Capacity within Established Limits to read as follows: Within the limits established by law in the adopting ordinance restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 1,000 gallons. Within the limits established by law in the adopting ordinance restricting the storage of liquefied petroleum gas for the protection of LI - Limited Industrial District, the aggregate capacity of any one installation shall not exceed a water capacity of 5,000 gallons.

Referenced Standards	
NFPA 10	2022 Edition
NFPA 13	2022 Edition
NFPA 13D	2022 Edition
NFPA 13R	2022 Edition
NFPA 20	2022 Edition
NFPA 30	2024 Edition
NFPA 30A	2024 Edition
NFPA 58	2024 Edition
NFPA 70	2023 Edition
NFPA 72	2022 Edition
NFPA 96	2024 Edition
NFPA 101	2024 Edition
NFPA 1123	2022 Edition
NFPA 1124	2006 Edition for 5601.1.3, all others 2022 Edition
NFPA 2001	2022 Edition

Appendix D. Fire Apparatus Access Roads.

Amend Section D101.1 Scope to read as follows: Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *International Fire Code*.

Public streets are regulated using the *Statewide Urban Design and Specifications* for public improvements as amended by the City. Private streets are regulated using the *Statewide Urban Design and Specifications* for public improvements as amended by the City.

Section D103 Minimum Specifications.

Amend D103.2 Grade. Fire apparatus access roads shall not exceed *Statewide Urban Design and Specifications* for public improvements as amended by the City.

Amend D103.3 Turning Radius. The minimum turning radii shall be determined by the Code Official.

Amend D103.4 Dead-Ends. Replace with: Dead-end fire apparatus access roads shall not exceed *Statewide Urban Design and Specifications* for public improvements or as approved by City Engineer.

Amend D103.5 Fire Apparatus Access Road Gates. Replace with: Gates securing fire apparatus access roads shall comply with all of the following criteria:

The minimum gate width shall accommodate a 14-foot clear drive lane width.

Gates shall be of the swinging or sliding type;

Construction of the gate shall be of materials that allow for manual operation by one person;

Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective;

Electric gates shall be equipped with a means of opening the gate by Fire Department personnel for emergency access. Emergency opening devices shall be approved by the Code Official;

Manual opening gates shall not be locked with a padlock or chain unless they are capable of being opened by means of forcible entry tools; and

Locking device specifications shall be submitted for approval by the Code Official.

Amend D103.6 Signs. Replace with: Where required by the Code Official, fire apparatus access roads shall conform to Section 511.4. Signs shall be posted on one or both sides of the fire apparatus road as required by §D103.6.1 or D103.6.2.

Amend D103.6.1 Roads 20 to 26 feet in width to read as follows: Fire apparatus access roads 20 to 26 feet wide shall be posted on both sides as a fire lane when required by the Code Official.

Amend D103.6.2 Roads more than 26 feet in width to read as follows: Fire apparatus access roads more than 26 feet wide shall be posted on one side of the road as a fire lane when required by the Code Official.

Amend Section D104 Commercial and Industrial Developments.

Amend D104.1 Access. All buildings shall have, at a minimum, two fire apparatus accesses as approved by the Code Official. Based on the building occupancy hazard, the Code Official may require more than two fire apparatus accesses. The Code Official may reduce this requirement for just cause as long as safety to the buildings or occupants is not jeopardized.

Amend D104.3 Remoteness. Where two access roads are required, they shall be placed a distance apart equal to not less than one-half the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses. The Code Official may reduce the separation distance between accesses for just cause as long as safety to the buildings or occupants is not jeopardized.

4. Liability for Damages.

This Code is enacted only for the purpose of securing to individuals the enjoyment of rights and privileges to which they are entitled as members of the public, rather than for the purpose of protecting any individual from harm.

The City, its officers, employees, or agents make no representations or warranties of any kind whatsoever, expressed or implied, with respect to the completeness or thoroughness of the inspections and examinations performed under this Code, but the inspections are made solely to assist the owner of the building, structure, equipment, and premises to meet certain minimum requirements of this Code and to compel, if necessary, the owner to meet the minimum requirements for the protection of the health, welfare, and safety of persons and property. Nothing herein contained in this Code shall alleviate the owner of any building, structure, equipment, and premises to make an independent inspection in order to fulfill the requirements of this Code nor shall this Code be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building, structure, equipment, or premises regulated herein from any damages to any person or property caused by defects or Code violations. The City, its officers, employees, or agents shall not be held as assuming any liability for damages to any person or property by reason of any inspections authorized by this Code or investigations, or any approvals issued herein, or for any act or failure to act in the enforcement of this Code.

5. Outstanding Permits. If a Building Permit is outstanding on the effective date of this chapter and the *Fire Code* adopted hereby, the provisions of this chapter, and the *Fire Code* adopted hereby, shall apply to the work authorized by such permit, except to the extent that the Fire Chief and Building Official shall determine that the application of such provisions to such work would be unreasonable. The burden shall be upon the holder of such permit to show the unreasonableness of such provisions.

6. Indemnity. The applicant for any permit under the Fire Code, by making application, assumes and agrees to pay all loss or damage to property whatsoever, and injury to or death of any person or persons whomsoever, including all costs and expenses incident thereto, however arising from or in connection with or related to the issuance of such permit 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 Fire Code or any other ordinance of the City; and such applicant by making such application, forever indemnifies the City, its officers, and employees, and agrees to save it and them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury, or death, costs and expenses, by reason of the foregoing even though acts or omissions of the City, its officers, or employees, may have caused or contributed thereto. The foregoing provisions shall be deemed to be a part of the permit issued under the *Fire Code* whether or not expressly recited therein.

7. Repeal of Conflicting Standards. In any case where the provisions of this chapter, or the *Fire Code* adopted hereby, are found to be in conflict with any provision of *Code of Iowa* or regulations of the State Fire Marshal, or any provision of any zoning, building, fire, electrical, plumbing, mechanical, safety, or health ordinance or Code of the City, the provision which establishes the higher standard for the promotion and protection of the safety of persons and property shall prevail.

8. Violations; Penalties. Unless otherwise provided by law, violations of this chapter are simple misdemeanors and are punishable by a fine not to exceed $500.00. Pursuant to Section 100.41 of the *Code of Iowa*, the officials of the Fire Prevention Bureau shall have the authority to issue citations for violations of this chapter or report the violation to the Police Department for citation. Violations of this chapter are also declared to be municipal infractions and may be punished as provided in Chapter 3. Officials of the Fire Prevention Bureau shall have the discretion to enforce this chapter either as a municipal infraction or a simple misdemeanor.

[The next page is 1395]

CHAPTER 156

PROPERTY MAINTENANCE AND RENTAL HOUSING CODE

156.01 Short Title
156.02 Adoption of Property Maintenance Code
156.03 Conflicts
156.04 Amendments, Modifications, Additions, and Deletions

156.01 SHORT TITLE. This chapter shall be known as the Windsor Heights Property Maintenance and Rental Housing Code, and may be cited as such, and may be referred to herein as this chapter.

156.02 ADOPTION OF PROPERTY MAINTENANCE CODE. The *International Property Maintenance Code*, 2021 Edition, published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified, or amended. A copy of the *International Property Maintenance Code,* 2021 Edition, as adopted, and a copy of this chapter are on file in the office of the Code Official.

156.03 CONFLICTS. In the event requirements of this code conflict with applicable State and federal requirements, the more stringent shall apply.

156.04 AMENDMENTS, MODIFICATIONS, ADDITIONS, AND DELETIONS. The *International Property Maintenance Code*, 2021 Edition, (hereinafter known as the IPMC), is amended as follows:

1. Deletion. The following section is deleted from the IPMC and is of no force or effect in this chapter:

   107 - Means of Appeal

2. Subsection 101.1, Title, of the IPMC is hereby deleted and there is enacted in lieu thereof the following subsection:

   101.1 Title. These regulations shall be known as the *Property Maintenance and Housing Code* of the City, hereinafter known as "this Code."

3. Subsection 102.3, Application of Other Codes, of the IPMC is hereby amended by deleting said subsection and inserting in lieu thereof the following:

   102.3 Application of Other Codes. Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions, as applicable, of the *Windsor Heights Building Code*, *Windsor Heights Energy Conservation Code*, *Windsor Heights Existing Building Code*, *Windsor Heights Fire Code*, *Windsor Heights Fuel Gas Code*, *Windsor Heights Electrical Code*, *Windsor Heights Mechanical Code*, *Windsor Heights Residential Code*, *Windsor Heights Plumbing Code*, and the *Windsor Heights Zoning Code*.

4. Subsection 102.12, *Rental Housing Code*, is hereby established by adding the following provisions:

102.12 Rental Housing Code. In addition to provisions of the *Property Maintenance Code* of the City, this subsection shall be hereafter known as the *City Rental Housing Code* and may be cited as such and will be referred to as such in this subsection.

102.12.1 Adoption of Housing Code. In accordance with the requirements of Section 364.17 of the *Code of Iowa*, the City hereby adopts the *Uniform Housing Code*, 1997 Edition, published by the *International Conference of Building Officials and the Recommended Minimum Housing Standards*, 1986 Edition, as published by the American Public Health Association. In instances where there is conflict between the *Uniform Housing Code*, 1997 Edition, and the *Recommended Minimum Housing Standards*, 1986 Edition, as adopted herein, the most restrictive provision will apply.

102.12.2 Scope. The provisions of this subsection shall be deemed to apply to all dwellings, or portions thereof, used or designed, or intended to be used, for human habitation. All occupancies in existing buildings may be continued as provided in previously adopted *Building Codes* except such structures as are found to be substandard as defined in this Code. Where any building, or portion thereof, is used or intended to be used as a combination apartment house-hotel, the provisions of this Code shall apply to the separate portions as if they were separate buildings. Every rooming house or lodging house shall comply with all of the requirements of this Code applicable to dwellings. However, this subsection does not apply to single-family dwellings occupied by the owner, as defined in Section 167.04, unless the owner is operating a rooming house.

102.11.23 Rent Abatement. The City may order rent abated when the building official, or its designee, determines the owner has, after issuance of a notice of violation of this chapter:

(1) Failed to provide an essential service (water, sewer, electricity, heat);

(2) Failed to remedy a condition that poses a substantial risk to the safety of the tenant; or

(3) Rented a dwelling unit without a Rental Certificate.

Rent abatement means no rent shall be recoverable by the owner or lessee of the dwelling from the tenant. Rent shall be abated until the condition for which rent abatement was ordered has been remedied. The Building Official, or its designee, shall provide a copy of the rent abatement order to the owner at the address on the Rental Certificate and to the tenant by U.S. mail and by posting the order on the entrance door to the dwelling unit. Notice of termination of the rent abatement order will be given in the same manner.

102.12.3 Purpose. The purpose of this Code is to ensure that rental housing facilities and conditions are of sufficient quality to protect and promote the health, safety, and welfare of those persons utilizing such housing and also the general public.

102.12.4 Definitions. For use in this subsection, the following items are defined:

Rental Apartment House or Building. Any building, or portion thereof, which is designed, rented, leased, or hired out to be occupied, or which is occupied as the home or residence of two or more families living independently of each other and doing their own cooking in the said building, and includes flats and apartments.

Rental Dwelling. Any house, building, or portion thereof, which is occupied, in whole or part, as a home or residence of one or more tenants, on a rental basis, or when, in return for housing, a tenant agrees to occupy and maintain the premises and pay utilities. No part of a building hereafter constructed or altered into a dwelling as described may be occupied, in whole or in part, for human habitation until the issuance of a Rental Certificate by the City that such part of the dwelling conforms to Code requirements. A dwelling unit that is being rented for a period of 90 days or less in a single calendar year or a portion of such dwelling unit shall be exempt from this chapter.

Rental Dwelling Unit. One or more habitable rooms in a dwelling, apartment house, rooming house, lodging house, or building which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking, and eating.

Rental Certificate. A certificate issued within 14 days after successful completion of a rental inspection. Such a certificate shall thereafter be known as a Rental Certificate.

Tenant.

(i) A person occupying a dwelling unit who pays (or has payments made on their behalf) a stated payment at fixed intervals for the use of the dwelling unit; or

(ii) A person occupying a dwelling unit owned by another individual, who, in return for housing, agrees to occupy and maintain the premises and pay utilities.

Rooming House. A building offered or occupied for lodging, with or without meals, and not occupied as a one- or two-family dwelling.

102.12.5 Housing Inspector. The Council may designate, by resolution, representatives or designees as housing inspectors, or the Council may, by resolution, approve certain qualified firms or persons who by training or experience are familiar with the provisions of this Code to perform inspections of rental apartment houses, buildings, or dwelling units in the City, to ensure their compliance with this Code. The inspectors appointed under the provisions of this subsection shall be charged with the responsibility of performing inspections of rental dwelling units in the City only but shall not be charged with the duty of enforcing the provisions of this Code. The City Administrator shall identify the appropriate person responsible for the enforcement of this Code and such person may also make any inspections required under the provisions of this subsection.

102.12.6 Regular inspections and Rental Certificate Duration.

The City will contact the property owner to notify them of the necessary steps to renew their Rental Certificate. If after reasonable

attempts have been made and the property owner is not reachable or fails to respond to notices or other attempts to contact them, the City will contact the tenant to outline the steps necessary for Rental Certificate renewal. Should it become necessary to contact a tenant to facilitate renewal required under this section, the City shall be entitled to collect additional fees from the property owner to compensate the City for the additional cost associated with this alternative inspection method.

Upon the first inspection of a rental property, if no violations are documented by the Building Inspector, a valid Rental Certificate shall be issued for a 24-month period. If on the first inspection, violations are documented, the Building Inspector shall have the discretion to limit the rental license duration to 12 months. The duration of a limited Rental Certificate shall be dependent on the number of violations, property history, or landlord history.

102.12.8 Applications for Rental Certificate. Every person who offers for rent, a rental apartment house or building, rental dwelling, or rental dwelling unit in the City shall submit to the City, on forms provided, an application requesting a Rental Certificate. Such application shall be accompanied by an application fee in the amount established in the current Fee Schedule. Upon receipt of such application, the City shall facilitate an inspection of the premises and, if the same complies with the provisions of this chapter, issue a Rental Certificate. If the premises fail to comply, the Inspector shall notify the applicant in writing, stating the reasons for such noncompliance.

102.12.8.1 Assessment of Costs.

The City may charge the owner of real property a late payment fee of $25.00 and may add interest up to one and one-half percent per month if costs imposed under this section are not paid within 30 days of the date due.

The City shall send a notice of the late payment costs to such owner by first class mail to the owner's personal or business mailing address. The late payment fee and interest shall not accrue if such owner files an appeal with the City.

Any owner objecting to the collection of costs by assessment may file a written request for a hearing before the City Administrator. The appeal shall be filed within 10 days from the date of the notice of late payment. An untimely appeal shall not be accepted unless, in the discretion of the City Administrator, good cause is shown for the untimely filing.

The City Administrator shall notify the appellant of the date, time, and location of the hearing.

Any unpaid costs and interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. Before a lien is filed, the City shall send a notice of intent to file a lien to the owner of the real property by first class mail to such owner's personal or business mailing address. Prior to filing a property lien, the City may use other means to recover payment, including, but not limited to, the use of professional collection services and the income offset program through the State.

102.12.9 Additional Inspections. In addition to the inspections required under Subsection 102.12.8, inspectors are also empowered to make similar inspections of all rental dwelling units as frequently as may be necessary and may make inspection at any reasonable time on a written complaint submitted by the owner, tenant, or other person concerned.

102.12.10 Inspection Fees for Additional Inspections.

When an inspection is made at the request of the owner, the owner will be responsible for associated inspection fees in accordance with the Fee Schedule. If an inspection is made at the written request of a tenant and the dwelling unit is found to be in noncompliance due to an omission of the owner, such owner shall be responsible for associated inspection fees. No inspection shall be conducted at the request of a tenant unless the tenant has first submitted the complaint in writing to the landlord no less than seven days before making such complaint to the City. If, after a written complaint by the tenant, the dwelling is found to comply or if such noncompliance is due to conduct on the part of the tenant, the tenant shall be liable for the cost of such inspection. If such costs are not paid by the tenant within 30 days after the date of billing, the City may initiate an action at law or in equity to recover the same in which event the tenant shall be liable for reasonable attorney fees. No fee shall be charged to the owner for inspections where the dwelling is found in compliance or noncompliance is due to conduct on the part of the tenant.

In the event an inspection is initiated by the City or at the written request of a person other than the owner or tenant, and if the dwelling unit is found to be in noncompliance, the owner shall be liable for associated inspection fees No inspection shall be conducted at the request of a person other than the owner or tenant unless that person has first submitted the complaint in writing to the landlord no less than seven days before making such complaint to the City. In the event that, on the date of the inspection, the dwelling unit complies with the provisions of the *Housing Code*, no fee shall be charged. In the event that, on the date of inspection, a dwelling unit fails to comply with the provisions of the *Housing Code*, which necessitates additional inspections, the owner shall be liable for the costs associated with re-inspection.

All fees required under this Code shall be paid prior to the issuance or renewal of the Rental Certificate.

102.12.11 Entrance and Survey of Buildings. Any such person authorized and acting on behalf of the City for the purposes of inspections may, without fee except as provided in Section 102.12.8, enter, examine, make necessary records, and survey all properties defined under this section within the City. If entry into the interior portion of a property defined in this section is required, 72 hours' notice shall be given by the inspector to the owner and tenant. The owner, owner's agent or representative, and the lessee and occupant of every property, and every person having the care and management of the same shall, at all reasonable times when required by such officers or persons, give them free access to such property and premises. The owner and said owner's agents and employees shall have right of access to such properties at reasonable times for the purpose of bringing about compliance with the provisions of this Code or any order issued hereunder.

102.12.12 Rental Certificates.

Rental Certificate Required. All owners of properties defined in this section shall register such property with the City. No person shall rent, lease, operate, or otherwise allow the occupancy of any property defined in this section unless such person holds a valid Rental Certificate as is required by this Code.

Issuance; Duration; Validation. If a property defined in this section fails to comply under Section 102.12.8, and if the property and premises are found later to comply with the requirements of this Code upon re-inspection, the City shall issue a temporary Rental Certificate. This Rental Certificate shall be valid for a period of 30 days from the date of inspection. Upon payment of the appropriate fees, the City shall validate it.

Display. Rental Certificates shall be displayed by the owner for the tenant to examine before the property may be rented, leased, or otherwise occupied.

Transfer. Rental Certificates shall not be transferable to succeeding owners. Rental Certificates shall automatically terminate and become null and void, without further action of the City, upon transfer of property ownership or upon execution of an agreement to purchase property on contract.

Termination. Rental certificates shall automatically terminate and become null and void upon issuance of a nuisance abatement by the City that is related, in any way, to the property to which the Rental Certificate applies.

102.12.13 Notice on Sale of Property Defined in This Section. Every person holding a Rental Certificate under this Code shall give notice, in writing, to the City within 96 hours after having sold, transferred, conveyed, or otherwise disposed of the ownership, interest in, or control of any property defined in this section. This notice shall include the name and address of the person succeeding to the ownership or control thereof.

102.12.14 Name and Address of Agent Filed. Every owner, agent, or lessee of a property defined in this section shall file with the City a notice containing the name and address of an agent of such property for the purpose of receiving service of all notices required by this Code.

102.12.15 Emergency Orders. Whenever the City finds that an emergency exists which threatens immediately the public health, safety, or welfare, the City may issue an order reciting the existence of such an emergency and requiring that such action be taken which the City deems necessary to meet the emergency. Notwithstanding the other provisions of this Code, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

102.12.16 Designation of Unfit Dwelling and Procedures of Condemnation. No person shall let to another for occupancy any property defined in this section for the purpose of living, inhabiting, sleeping, cooking, and eating therein which does not comply with the following requirements. Any such property which is found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the City.

One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health, safety, or welfare of the occupants or the public.

One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health, safety, or welfare of the occupants or of the public.

One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health, safety, or welfare of the occupants or of the public.

102.12.17 Vacated Immediately. Any property defined in this section, or any portion thereof, condemned as unfit for human habitation and so designated and placarded by the City shall be vacated immediately as ordered by the City. The City Administrator shall be notified of such action prior to placarding the property.

102.12.18 Elimination of Defects. No property defined in this section, or a portion thereof, which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the City. The City shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

102.12.19 Defaced or Removed Placard. No person shall deface or remove the placard from any property which has been condemned as unfit for human habitation and placarded as such, except as provided in this Code.

102.12.20 Authority to Execute. In case any notice or order issued by the City is not complied with, the City may apply to the district court for an order authorizing the City to execute and carry out the provisions of the notice or order to correct any violation specified in the notice or order to abate any nuisance in or about the property.

102.12.21 Action to Enjoin. In case any property defined in this section is constructed, altered, converted, or maintained in violation of any provisions of this Code, or of any order or notice of the City, or in case a nuisance exists in any such property or upon the lot on which it is situated, the City may cause the institution of any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion, or maintenance, to restrain, correct, or abate such violation, or nuisance, or to prevent the occupation of the property, or to prevent any illegal act, conduct business in or about such property or lot.

102.12.22 Injunction. In any such action or proceeding, the City may, by a statement duly verified setting forth the facts, apply to the district court for an order granting the relief for which the action or proceeding is brought, or for an order enjoining any persons from doing or permitting to be done any work in or upon such property, or from occupying or using the same for any purpose until the entry of final judgment or order.

102.12.24 Notice of Actions. In any action brought by the City in relation to a property defined in this section or injunction, vacation of the premises, or abatement of nuisance, or to establish a lien thereon, or to recover a civil penalty, service of notice shall be in the manner provided by law for the service of an original notice.

102.12.26 City Liability. The City, nor any person authorized and acting on behalf of the City, shall be liable for damages to a person or property as a result of any act or failure to act in the enforcement of this Code. This Code shall not be construed to relieve from, or lessen, the responsibility of any person owning, operating, or controlling any equipment or structure regulated herein for damages to a person or property caused by its defects, nor shall the City, or any person authorized and acting on behalf of the City, be held as assuming any such liability by reason of the inspections authorized by this Code or any approvals issued under this Code.

102.12.27 Civil Liability. The owner of any property defined in this section, or upon the same lot, in violation of this Code or where a nuisance, as defined in this Code, exists, who has been guilty of such violation or of creating or knowingly permitting the existence of such violation, or any occupant who violates or assists in violating any provisions of this Code, shall also jointly and severally for each such violation and each such nuisance be subject to a civil penalty, in a civil action brought in the name of the City. Such person or persons, and also the premises, shall be liable in such case for all costs, expenses, and disbursements paid or incurred by the City, including attorneys' fees, paid or incurred by the City, by any of the officers, agents, or employees thereof, in the removal of any such nuisance or violation.

102.12.29 Additional Liability. Any person who, having been served with a notice or order to remove any such nuisance or violation, fails to proceed in good faith to comply with the notice or order within five days after such service or who continues to violate any provisions or requirements of this Code, shall also be subject to a civil penalty. For the recovery of such penalties, costs, expenses, or disbursements, an action may be brought in a court of competent civil jurisdiction.

102.12.30 Rental Housing Code Appeals.

102.12.30.1 Reconsideration. Any person aggrieved by a notice or order of the City in connection with any alleged violation of this *Rental Housing Code*, of any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the City Administrator for an administrative conference for reconsideration of such notice or order if such application is made within 14 days after the date the notice or order was served. If the City Administrator holds an administrative conference for reconsideration of the notice or order, the City shall prepare a written summary of the conference, including a written statement of the decision reached. Such summary and statement shall become part of the public record.

102.12.30.2 Appeal. Any person aggrieved by a decision of the City issued under Subsection 102.12.30.1 of this subsection may apply to the Council for a reconsideration of such decision provided such application is made within 21 days after the date the decision was served.

102.12.30.3 Hearing; Decision. Upon receipt of an appeal, the City Administrator shall cause the issue to be brought to the Council for a hearing at the immediately following regularly scheduled Council meeting and shall advise the applicant in writing of such time and place at least seven days prior to the date of the hearing. At the hearing, the applicant shall be given an opportunity to be heard and to show cause why such decision of the City should be modified, extended, withdrawn, or a variance granted. The Council may sustain, modify, or withdraw the decision of the City. In granting an extension or variance of any decision, the Council shall observe the following conditions, in Subsections 102.12.30.4 and 102.12.30.5:

102.12.30.4 Extension Granted. The Council may grant an extension of time for the compliance with any order, notice, or decision, for not more than six months, subject to appropriate conditions and provided that the Council makes specific findings of fact based on evidence relating to the following:

There are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice, order, or decision; and

Such an extension is in harmony with the general purpose and intent of this chapter in securing the public health, safety, and general welfare.

102.12.30.5 Variance. The Council may grant a variance in a specific case and from a specific provision of this *Rental Housing Code* subject to appropriate conditions and provided the Council makes specific findings of fact based on evidence related to the following:

The property in question cannot yield a reasonable return or be used for a conforming purpose if used only for a purpose allowed in that zone or as allowed by the *Rental Housing Code*; and

The plight of the property owner is due to unique circumstances of the specific property owner and not to the general conditions of other properties in the City; and

The use to be authorized by the variance will not alter the essential character of the locality or the general purposes underlying the *Rental Housing Code* in securing the public health, safety, and general welfare; and

The hardship must be substantial, serious, real, and of compelling force, as distinguished from reasons of convenience, profit or caprice; and

The application of a particular *Rental Housing Code* provision to a particular property greatly decreases or practically destroys its value for any permitted use, or where such application bears so little relationship to the purposes of health, safety, and welfare of the public that, as to the property in question, the provision is in effect confiscatory, arbitrary, or capricious, or constitutes an unnecessary, unwarranted, or unjust invasion of, or interference with, a fundamental right or property; and

The unnecessary hardship of practical difficulties along with their arbitrary effect cannot be remedied by the grant of an extension.

Such grant of variance shall not go into effect until 21 days after the date the variance is granted.

Section 302.4 Weeds. Insert: “six inches”.

Section 304.14 Insect Screens. Insert: “April 1” and “October 31”

Section 404.4.1 Room Area. Delete “one person” and insert in lieu thereof “two persons”

Section 602.3 Heat Supply. Insert: “October 1” and “April 30”

Section 602.4 Occupiable Workspaces. Insert: “October 1” and “April 30”

[The next page is 1409]

CHAPTER 157

STANDARD CONSTRUCTION SPECIFICATIONS

157.01 Purpose
157.02 Adoption of Specifications
157.03 Amendments
157.04 Violation

157.01 PURPOSE. In order to ensure the consistent high quality of materials and workmanship in all public construction projects, the City deems it in the public interest to establish and publish Standard Construction Specifications which shall apply to and govern the construction of all public improvements in public rights-of-way within the City.

157.02 ADOPTION OF SPECIFICATIONS. The City adopts, by reference, the following minimum standards for public improvements constructed within the City's jurisdictional area. The *Iowa Statewide Urban Design and Specifications*, 2025 Edition (SUDAS) manuals shall be the adopted City Standard for Public Improvements. SUDAS shall be the minimum standards; due to unusual or extenuating circumstances, the City may require that projects conform to additional standards or to greater than minimum standards. A copy of the specifications shall remain on file at the office of the Clerk and shall be available for inspection and copying. All contractors and suppliers shall be charged with knowledge of its contents.

157.03 AMENDMENTS. The City may, from time to time, make additions or changes to the specifications in the form of amendments adopted by resolution. Following adoption by resolution, the amendments shall be placed in the publication on file with the Clerk and shall have the full force and effect of law as of the date the amendments are filed.

157.04 VIOLATION. Any person violating any provisions of the Standard Construction Specifications shall be guilty of a simple misdemeanor.

[The next page is 1435]

CHAPTER 160

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

160.01 Findings
160.02 Purpose
160.03 Definitions
160.04 Applicability
160.05 Application Procedure
160.06 Inspection Procedures
160.07 Monitoring Procedures
160.08 Enforcement
160.09 Failure to Comply
160.10 Appeal
160.11 Financial Securities
160.12 Right of Entry

160.01 FINDINGS.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES Permit for the discharge of stormwater from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the Clerk and is available for public inspection during regular office hours.

2. The Program requires certain individuals engaged in construction activities ("applicants") to submit an application to the IDNR for a State NPDES General Permit #2. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with a State NPDES General Permit #2 and a City COSESCO Permit and any other requirement of State or federal law or administrative rule.

3. As a condition of the City's MS4 Permit, the City is obliged to undertake responsibility for administration and enforcement of the Program by adopting a Construction Site Erosion and Sediment Control ("COSESCO") ordinance designed to achieve the following objectives:

   A. Any applicant required by law or administrative rule to apply to the IDNR for a State NPDES General Permit #2 shall also be required to obtain from the City a COSESCO Permit ("City COSESCO Permit") in addition to and not in lieu of the State NPDES General Permit #2; and

   B. The City shall have responsibility for inspection, monitoring, and enforcement procedures to promote applicants' compliance with State NPDES General Permit #2 and City COSESCO Permits.

4. No State or federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its application, inspection, monitoring, and enforcement responsibilities entirely by fees imposed on the owners of properties which are made subject to the Program by virtue of State and federal law, or other sources of funding established by a separate ordinance.

5. Terms used in this chapter shall have the meanings specified in the Program.

160.02 PURPOSE. The general purpose of this chapter is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public, and private property, and natural resources within the community from construction site erosion. Specific purposes are to establish performance standards that will provide a single, consistent set of performance standards that apply to all developments and will protect public and private property and Walnut Creek and North Walnut Creek from damage resulting from erosion and sediment in stormwater runoff.

160.03 DEFINITIONS. For purposes of this chapter, the following terms are defined.

1. "Applicant" means a property owner or agent of a property owner who has filed an application for a Construction Site Erosion and Sediment Control Permit.

2. "Developer" means a person who undertakes land disturbance activities.

3. "Development" means land disturbance activity on land previously vacant of buildings or largely free of previous land disturbance activity other than traditional agricultural activities; or on land where existing land use is high density commercial or residential (a.k.a. "redevelopment").

4. "Enforcement Officer" means that person designated by the City having responsibility for administration and enforcement of this chapter.

5. "Land disturbance activity" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction. substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

6. "Stormwater Pollution Prevention Plan" (SWPPP) means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

7. "Iowa Stormwater Management Manual" (ISWMM) means the current *Iowa Stormwater Management Manual* publication, by whatever name, as amended from time to time by Iowa Department of Natural Resources and which recommends stormwater management guidelines and uniform sizing criteria and BMPs designed to address said guidelines.

8. "Iowa Statewide Urban Design and Specifications" (SUDAS) means the current *Iowa Statewide Urban Design and Specifications* manual, as amended, and maintained by the Institute for Transportation at Iowa State University which provides design guidance and standard specifications for typical public works projects.

160.04 APPLICABILITY.

1. All persons required by law or administrative rule to obtain a State NPDES General Permit #2 from the IDNR are required to obtain a City COSESCO Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP).

2. All persons are required to obtain a City COSESCO Permit and prepare an Erosion and Sediment Control Plan (ESC) if proposing a land disturbance activity that will:

   A. Disturb a total land surface area of between 3,000 square feet and one acre; or

B. Excavate or fill a volume in excess of 50 cubic yards of material; or

C. Lay, repair, replace, or enlarge an underground utility, pipe, or other facility, or disturb a road ditch, grass swale, or other open channel for a distance of 300 feet or more.

160.05 APPLICATION PROCEDURE.

1. The applicant shall request a pre-application meeting, which will be facilitated by the City between the applicant, City staff, and staff of partner agencies as applicable. The meeting shall be mandatory prior to submission of a permit application. The purposes of the meeting are to understand the general parameters of the proposed project and to convey the requirements of meeting the provisions of this chapter and other applicable ordinances.

2. The City shall make a determination regarding the completeness of a City COSESCO Permit application within 10 business days of the receipt of the application and notify the applicant in writing if the application is not complete, including the reasons the application was deemed incomplete.

3. The applicant shall not commence any construction activity subject to this chapter until a City COSESCO Permit has been authorized by the City. A complete review of the permit application shall be done within 15 business days of the receipt of a complete permit application from the applicant. The City will work with the necessary State, County, and local agencies to complete its review. The City shall review all information in the permit application, including proposed stormwater practices, hydrologic models, and design methodologies and certify compliance with this chapter. Applications for City COSESCO Permits shall be made on forms approved by the City, which applications may be obtained from the office of the Clerk.

4. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution.

5. An applicant in possession of a State NPDES General Permit #2 issued by the IDNR shall immediately submit to the City full copies of the materials described below as a basis for the City to determine whether to issue a City COSESCO Permit:

A. Applicant's plans, specifications, and supporting materials previously submitted to the IDNR in support of applicant's application for the State NPDES General Permit #2;

B. Applicant's authorizations issued pursuant to applicant's State NPDES General Permit #2; and

C. A Stormwater Pollution Prevention Plan ("SWPPP") prepared in accordance with this chapter.

6. Every SWPPP submitted to the City in support of an application for a City COSESCO Permit shall:

A. Comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES General Permit #2;

B. Comply with all other applicable State or federal permit requirements in existence at the time of application;

C. Be prepared by a licensed professional engineer or landscape architect, or a professional in erosion and sediment control, or a representative of the local Soil and Water Conservation District, credentialed in a manner acceptable to the City; and

D. Include within the SWPPP a signed and dated certification by the NPDES General Permit #2 permit holder that the SWPPP complies with all requirements of this chapter and the applicant's NPDES General Permit #2.

7. In addition to the SWPPP requirements stated in Subsection 6 of this section, which constitute minimum mandatory requirements imposed by the Program, every SWPPP submitted to the City in support of an application for a City COSESCO Permit shall comply with SUDAS standard design criteria, including, but not limited to, design, location, and phased implementation of effective, practicable stormwater pollution prevention measures, and shall also:

A. Limit total off-site annual aggregate sediment yield for exposed areas to an equivalent amount resulting from sheet and rill erosion equal to an annual, cumulative soil loss rate not to exceed the standard established, from time to time, by Soil and Water Conservation Districts; erosion rates can exceed soil loss limits as long as sediment yield does not exceed that expected from allowable erosion rates.

B. Identify the nature of the construction activity and the potential for sediment and other pollutant discharges from the site.

C. Calculate the predicted erosion and estimated sediment yield for the construction site using the USDA Revised Universal Soil Loss Equation.

D. Assure that stockpiles of soil or other materials subject to erosion by wind or water are covered, vegetated, or otherwise effectively protected from erosion and sedimentation in accordance with the amount of time the material will be on site and the manner of its proposed use; no stockpiling is allowed in the street.

E. Include an affidavit stating that the erosion caused by the activity will not exceed the Soil and Water Conservation District's adopted soil and loss limits according to Section 161A.64 of the *Code of Iowa*.

F. Identify measures and procedures to reasonably minimize site soil compaction and provide soil quality restoration as specified.

G. Assure that all temporary erosion and sediment controls shall not be removed until the City has determined that the site has been permanently stabilized.

H. Assure that all disturbed sites be permanently stabilized with 70 percent perennial cover as measured by the USDA line transect method.

I. Identify methods to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened, or endangered species habitats, wildlife corridors, greenways, etc.

J. Provide for design and construction methods to stabilize steep or long continuous slopes.

K. Include measures to control the quantity and quality of stormwater leaving a site before, during, and after construction.

L. Provide for stabilization of all waterways and outlets.

M. Protect storm sewer infrastructure from sediment loading or plugging.

N. Specify precautions to be taken to contain sediment when working in or crossing water bodies.

O. Assure stabilization of disturbed areas, including utility construction areas, as soon as possible.

P. Protect outlying roads from sediment and mud from construction site activities, including tracking.

Q. Provide for disposal of collected sediment and floating debris.

R. Assure that, when working near Walnut or North Walnut Creek, the specific practices itemized immediately below are utilized:

(1) During Construction.

a. All exposed soil areas with a slope of 3:1 or steeper, which have a continuous positive slope to Walnut or North Walnut Creek, should have temporary erosion protection or permanent cover within three days after the area is no longer actively being worked; all other slopes that have a continuous positive slope to Walnut or North Walnut Creek should have temporary erosion protection or permanent cover within seven days after the area is no longer actively being worked.

b. Temporary sediment basin requirements should be used for common drainage locations that serve an area with five or more acres disturbed at one time.

(2) Buffer Zone. Provide for the maintenance at all times of an undisturbed buffer zone consisting of not less than 100 linear feet from Walnut or North Walnut Creek. Exceptions from this for areas such as water crossings or limited water access are allowed if the applicant fully documents in the SWPPP the circumstances and reasons that the buffer encroachment is necessary; all potential water quality, scenic, and other environmental impacts of these exceptions should be minimized and documented in the SWPPP for the project.

(3) Enhanced Temperature Controls. Design the permanent stormwater management system such that the discharge from the project will minimize any increase in the temperature.

a. Minimize new impervious surfaces; or

b. Other methods that will minimize any increase in the temperature of the sensitive waters.

8. Issuance by the City of a City COSESCO Permit shall be a condition precedent for the issuance of a City Building Permit or site plan approval.

9. Every Erosion and Sediment Control Plan (ESC) submitted to the City in support of a City COSESCO Permit shall:

A. Phase construction to minimize duration of exposed soil areas.

B. Provide temporary and permanent erosion prevention, sediment control, stormwater runoff, and soil stabilization BMPs along with procedures to establish additional temporary BMPs as necessary for the site conditions during construction.

C. Provide final stabilization of all exposed soil areas.

D. Incorporate the following into the site design for erosion and sediment control:

(1) Minimize disturbance of natural soil cover and vegetation.

(2) Minimize, in area and duration, exposed soil and unstable soil conditions.

(3) Protect receiving water bodies, wetlands, and storm sewer inlets.

(4) Protect adjacent properties from sediment deposition.

(5) Minimize off-site sediment transport on trucks and equipment.

(6) Minimize work in and adjacent to water bodies and wetlands.

(7) Maintain stable slopes.

(8) Avoid steep slopes and the need for high cuts and fills.

(9) Minimize disturbance to the surrounding soils, root systems, and trunks of trees adjacent to site activity that are intended to be left standing.

(10) Minimize the compaction of site soils.

E. Identify the:

(1) Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project.

(2) One-hundred-year flood elevation with and without the floodway, flood fringe, or general flood boundary, if available.

(3) Normal water level, high water level, and emergency overflow elevations for the site and all associated ponding systems.

(4) Locations of all stormwater management practices, infiltration areas, and areas not to be disturbed during construction.

(5) Location, size, and approximate grade of proposed public sewer and water mains.

(6) Construction phasing, including a map and calculations as necessary of areas of grubbing, clearing, tree removal, grading, excavation, fill, and other disturbance; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored, or otherwise moved on site, delineated limits of disturbance, and final stabilization methods.

(7) Locations of planned temporary and permanent erosion prevention, sediment control, stormwater runoff, and soil stabilization BMPs.

10. For so long as a construction site is subject to a State NPDES General Permit #2 or a City COSESCO Permit, the applicant shall provide the City with current information, as follows:

A. The name, address, and telephone number of the person on site designated by the owner who is knowledgeable and experienced in erosion and sediment control and who will oversee compliance with the State NPDES General Permit #2 and the City COSESCO Permit;

B. The names, addresses, and telephone numbers of the contractors or subcontractors that will implement each erosion and sediment control measure identified in the SWPPP or ESC.

11. Applicant's failure to provide current information shall constitute a violation of this chapter.

12. Developers can transfer State NPDES General Permit #2 and the City COSESCO Permit responsibility to homebuilders, new lot owners, contractors, and subcontractors. Transferees must agree to the transfer in writing, must agree to fulfill all obligations of the SWPPP or ESC, the State NPDES General Permit #2 (if applicable), and the City COSESCO Permit. Absent such written confirmation of transfer of obligations, the developer remains responsible for compliance on any lot that has been sold. A developer shall notify the City of any application to the DNR for release of any property from a NPDES General Permit #2 pursuant to *Iowa Administrative Code* 567, 64.6(6) or any similar successor provision.

13. Upon receipt of an application for a City COSESCO Permit, the City shall either find that the application complies with this chapter and issue a City COSESCO Permit in accordance with this chapter, or that the application fails to comply with this chapter; in which case, the City shall provide a bill of particulars identifying non-compliant elements of the application. The City will use a consulting engineer to accomplish this review.

14. Application for termination of a City COSESCO Permit shall be made by contacting the City Inspector.

15. Before work under the permit is deemed complete, the permittee must submit as-builts and a maintenance plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications.

160.06 INSPECTION PROCEDURES.

1. All inspections required under this chapter shall be conducted by the Public Works Director, City Engineer, Building Inspector, a subcontractor credentialed in a manner satisfactory to the City, or other appropriate designee, hereinafter referred to as the "Enforcement Officer."

2. The City shall conduct inspections on a regular basis to ensure that both stormwater and erosion and sediment control measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. Mandatory inspections are required as follows:

A. Before any land disturbing activity begins;

B. At the time of footing inspections;

C. At the completion of the project; and

D. Prior to the release of financial securities.

3. Applicant shall notify the City prior to commencing land disturbing activity, at the time of footing inspections and when all measures required by applicant's SWPPP have been accomplished on-site, whereupon the City shall conduct an initial inspection for the purpose of determining compliance with this chapter, and shall within a reasonable time thereafter report to the applicant either that compliance appears to have been achieved, or that compliance has not been achieved, in which case the City shall provide a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for taking corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter.

4. Construction shall not occur on the site at any time when the City has identified conditions of noncompliance.

5. Construction activities undertaken by an applicant prior to resolution of all discrepancies specified in the bill of particulars shall constitute a violation of this chapter.

6. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for non-compliant conditions undetected by inspection.

160.07 MONITORING PROCEDURES.

1. Upon issuance of a City COSESCO Permit, an applicant has an absolute duty to monitor site conditions and to report to the Enforcement Officer any change of circumstances or site conditions which the applicant knows or should know pose a risk of stormwater discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2, or City COSESCO Permit.

A. Such report shall be made by the applicant to the Enforcement Officer immediately, but in any event within 24 hours of the change of circumstances or site conditions.

B. Failure to make a timely report shall constitute a violation of this chapter.

2. Any third party may also report to the City site conditions which the third party reasonably believes pose a risk of stormwater discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2, or City COSESCO Permit.

3. Upon receiving a report pursuant to the previous subsections, the Enforcement Officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the Enforcement Officer shall immediately commence enforcement actions specified in Section 160.08.

4. Unless a report is made to the Enforcement Officer pursuant to the previous subsections, the Enforcement Officer shall conduct at least one unannounced inspection during the course of construction to monitor compliance with the State NPDES General Permit #2 and the City COSESCO Permit. If the inspection discloses any significant noncompliance, the Enforcement Officer shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the Enforcement Officer shall immediately commence enforcement actions specified in Section 160.08.

5. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for non-compliant conditions undetected by inspection.

160.08 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action, including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa*, pursuant to Chapter 3.

3. Enforcement pursuant to this section shall be undertaken by the Enforcement Officer upon the advice and consent of the City Attorney.

4. In cases where cooperation for inspections is withheld, construction stop work orders shall be issued by the City until stormwater and erosion, and sediment control measures meet the requirements of this chapter. An inspection must follow before work can resume.

5. If stormwater or erosion and sediment control management measures malfunction and breach the perimeter of the site, enter streets, other public areas, or Walnut and North Walnut Creek, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-way from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining permission. If, in the discretion of the City, the applicant does not repair the damage caused by the stormwater runoff, the City can complete the remedial work required and charge the cost to the applicant. If payment is not made within 30 days, payment will be made from the applicant's financial securities.

6. The City can take any combination of the following actions in the event of a failure by applicant to meet the terms of this chapter:

A. Withhold inspections or issuance of certificates or approvals;

B. Revoke any permit issued by the City to the applicant;

C. Conduct remedial or corrective action on the development site or adjacent site affected by the failure;

D. Charge applicant for all costs associated with correcting the failure or remediating damage from the failure; if payment is not made within 30 days, payment will be made from the applicant's financial securities;

E. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this chapter; and

F. Any person, firm, or corporation failing to comply with or violating any of these regulations shall be deemed guilty of a misdemeanor and be subject to a fine. Each day that a separate violation exists shall constitute a separate offense.

160.09 FAILURE TO COMPLY. Failure to comply with this chapter constitutes a municipal infraction. The property owner is responsible to ensure that this chapter is observed.

160.10 APPEAL. Administrative decisions by City staff and enforcement actions of the Enforcement Officer may be appealed by the applicant to the Council pursuant to the following rules:

1. The appeal must be filed in writing with the Clerk within five business days of the decision or enforcement action.

2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the Enforcement Officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.

3. The Enforcement Officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the Enforcement Officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.

4. The Clerk shall notify the applicant and the Enforcement Officer by ordinary mail, and shall give public notice, in accordance with Chapter 21 of the *Code of Iowa*, of the date, time, and place for the regular or special meeting of the Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four or more than 20 days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A of the *Code of Iowa*. The applicant may be represented by counsel at the applicant's expense. The Enforcement Officer may be represented by the City Attorney or by an attorney designated by the Council at City expense.

The decision of the Council shall be rendered in writing and may be appealed to the Iowa District Court.

160.11 FINANCIAL SECURITIES.

1. The City shall require financial securities from the applicant in an amount sufficient to cover the entirety of the estimated costs of permitted and remedial work based on the final design as established in a set finance security schedule determined by the City.

2. Financial securities shall not be released until all permitted and remedial work is completed.

3. Financial securities may be used by the City to complete work not completed by the applicant.

4. The form of the financial securities shall be one or a combination of the following to be determined by the City:

A. Cash Deposit. The first $5,000.00 of the financial security for erosion and sediment control shall be by cash deposit to the City. The cash will be held by the City in a separate account.

B. Securing Deposit. Deposit, either with the City, a responsible escrow agent, or trust company and, at the option of the City, either:

(1) An irrevocable letter of credit or negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by State and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment;

(2) Cash in U.S. currency; or

(3) Other forms of securities (e.g., disbursing agreement) as approved by the City.

5. The security shall save the City free and harmless from all suits or claims for damages resulting from the negligent grading removal, placement or storage of rock, sand, gravel, soil, or other like material within the City.

6. If, at any time during the course of the work, the amount falls below 50 percent of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the applicant does not bring the financial security back up to the required amount within seven days after notification by the City that the amount has fallen below 50 percent of the required amount, the City may:

A. Withhold the scheduling of inspections or the issuance of a Certificate of Occupancy.

B. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.

7. The City may access financial security for remediation actions if any of the conditions listed below exist. The City shall use the security to finance remedial work undertaken by the City, or a private contractor under contract to the City, to reimburse the City for all direct costs incurred in the process of remedial work, including, but not limited to, staff time and attorney fees.

A. Abandonment. The applicant ceases land disturbing activities or filling and abandons the work site prior to completion of the grading plan.

B. Failure to Implement the SWPPP or ESC Plan. The applicant fails to conform to the grading plan or the SWPPP as approved by the City.

C. Failure to Perform. The techniques utilized under the SWPPP or ESC Plan fail within one year of installation.

D. Failure to Reimburse the City. The applicant fails to reimburse the City for corrective action taken.

8. When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by one-third. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security to two-thirds of the initial amount. This reduction in financial security will be determined by the City.

9. The security deposited with the City for faithful performance of the SWPPP or ESC Plan and any related remedial work shall be released one full year after the completion of the installation of all stormwater pollution control measures as shown on the SWPPP or ESC Plan.

160.12 RIGHT OF ENTRY. The issuance of a permit constitutes a right of entry for the City, or its contractor, to enter upon the construction site. The applicant shall allow the City and the City's authorized representative upon presentation of credentials to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, or surveys;

2. Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigation;

3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit;

4. Inspect the stormwater pollution control measures;

5. Sample and monitor any items or activities pertaining to stormwater pollution control measures; and

6. Correct deficiencies in stormwater and erosion and sediment control measures.

[The next page is 1451]

CHAPTER 161

POST-CONSTRUCTION STORMWATER CONTROL

161.01 Findings of Fact
161.02 Purpose
161.03 Applicability
161.04 Compatibility with Other Requirements
161.05 Definitions
161.06 Permit Procedures and Requirements
161.07 Waivers
161.08 Stormwater Standards
161.09 Approval of Stormwater Management Concept Plan
161.10 Approval of Stormwater Management Final Plan
161.11 Performance Security or Bond
161.12 Maintenance Performance Security or Bond
161.13 Construction Inspection
161.14 Maintenance and Repair of Stormwater BMPs
161.15 Enforcement and Penalties
161.16 Appeal

161.01 FINDINGS OF FACT.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") Permit Program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES Permit for the discharge of stormwater from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the Clerk and is available for public inspection during regular office hours.

2. As a condition of the City's MS4 Permit, the City is obliged to develop, implement, adopt, and enforce a post-construction stormwater control ordinance.

3. No State or federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its operations under this chapter entirely by charges imposed on the owners or developers of properties which are made subject to the Program by virtue of State and federal law, or other sources of funding established by a separate ordinance.

4. Land development and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition if left uncontrolled; this uncontrolled stormwater runoff contributes to increased quantities of water-borne pollutants; and stormwater runoff, soil erosion, and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

5. Therefore, City establishes this set of City stormwater requirements applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

6. The *Iowa Stormwater Management Manual* published by the Iowa Department of Natural Resources establishes guidelines consisting of unified sizing criteria (water quality volume, channel protection storage volume, overbank flood protection, extreme flood protection), stormwater management designs and specifications, and best management practices (BMPs). The City hereby finds and declares that the guidelines provided for in the *Iowa Stormwater Management Manual*, or future editions thereof, along with any locally adopted modifications, are hereby adopted as the stormwater management standards of the City. Any BMP installation that complies with the provisions of the *Iowa Stormwater Management Manual*, or future editions thereof, at the time of installation shall be deemed to have been installed in accordance with this chapter.

161.02 PURPOSE. The purpose of this chapter is to establish and adopt the City's standards and sizing criteria, and to require the BMPs defined within the ISWMM to address said standards and as specifically identified above (hereinafter collectively "City stormwater requirements") in order to protect and safeguard the general health, safety, and welfare of the public within this jurisdiction. This chapter seeks to meet that purpose through the following objectives:

1. Minimize increases in stormwater runoff from development within the City limits and fringe area in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;

2. Minimize increases in non-point source pollution caused by stormwater runoff from development which would otherwise degrade local water quality;

3. Minimize the total annual volume of surface water runoff which flows from any specific development project site after completion to not exceed the pre-development hydrologic regime to the maximum extent practicable; and

4. Reduce stormwater runoff rates and volumes, soil erosion, and non-point source pollution, wherever possible, through establishment of appropriate minimum stormwater management standards and BMPs and to ensure that BMPs are properly maintained and pose no threat to public safety.

161.03 APPLICABILITY.

1. This chapter is applicable to all subdivision or site plan applications meeting the minimum square foot applicability criteria of Subsection 2 of this section, unless eligible for an exemption or granted a waiver by the City under Section 161.07. This chapter also applies to land disturbance activities that are smaller than the minimum square foot applicability criteria specified in Subsection 2 if such activities are part of a larger common plan of development that meets the minimum square foot applicability criteria specified in Subsection 2, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by an engineer hired by the City to ensure that established water quality standards will be maintained during and after development of the site and that post-construction runoff levels are consistent with any local and regional watershed plans. The following activities are exempt from this chapter:

A. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the appropriate agency, as applicable.

B. Additions or modifications to existing single-family structures.

C. Repairs to any stormwater BMPs deemed necessary by the City.

2. City stormwater requirements must be met for development or redevelopment to be approved. Final authorization of all development and redevelopment projects shall be determined after a review by the City. City stormwater requirements apply to any development and redevelopment meeting at least one of the following:

A. Any redevelopment adding more than 10,000 square feet of new impervious surface, but disturbing less than 50 percent of the site, shall provide stormwater management at the water quality volume standard and shall meet the channel protection standard or demonstrate why doing so is infeasible. This threshold is a cumulative amount of new square footage and may be reached over time in increments.

B. Any redevelopment disturbing 50 percent or more of a site shall be required to meet the same stormwater management standards as a new development. This threshold is a cumulative amount of new square footage and may be reached over time in increments.

C. Any new development adding more than 10,000 square feet of new impervious surface shall meet the stormwater management standards as outlined. This threshold is a cumulative amount of new square footage and may be reached over time in increments. At such time that a development site exceeds 10,000 cumulative square feet of new impervious surface, the site will be required to come into compliance with this ordinance.

D. Land disturbing activity exceeding 25,000 square feet in area where the existing land is being redeveloped.

3. When a site development plan is submitted that qualifies as a development, as defined in this chapter, decisions on permitting any appropriate on-site BMPs shall be guided by the SUDAS Design Manual. Final authorization of all development and redevelopment projects will be determined after a review by City.

161.04 COMPATIBILITY WITH OTHER REQUIREMENTS.

1. It is intended that this chapter be construed to be consistent with Chapter 160 and Chapter 102. It is intended that this chapter be construed to be consistent with Chapter 185 as well as any other applicable local, State, or federal regulation.

2. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

161.05 DEFINITIONS. Terms in this chapter, other than those defined below, shall have the meanings set out in the *Iowa Stormwater Management Manual*.

1. "Applicant" means a property owner or agent of a property owner who has filed an application for a Stormwater Management Permit.

2. "Best management practice" (BMP) means physical practices or structures determined to be practices used to reduce pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat. BMPs can be structural or non-structural. Non-structural BMPs focus on

preserving open space, protecting natural systems, and incorporating existing landscape features such as wetlands and stream corridors into a site plan to manage stormwater at its source. Structural BMPs include constructed ponds, pavement systems, oil or grease separators, planted vegetative areas such as grassed swales, bioretention and other infiltration-based practices, outlet structures, and other constructed facilities intended to manage stormwater.

3. "Buffer" means, for this chapter, a vegetative area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir area.

4. "Building" means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property. For purposes of this chapter, structures not intended for shelter such as a pergola, trellis, gazebo, and any other constructed obstacle shall also be considered to be buildings and shall be reviewed for impact on stormwater management.

5. "Channel protection storage volume" means providing for practices that will allow for extended detention of the runoff generated by a one-year, 24-hour event. This means capturing the runoff volume from a storm of this nature and slowly releasing it over a period of no less than 24-hours to reduce rapid "bounce" effect common in many urban streams that leads to downcutting and streambank erosion.

6. "City stormwater requirements" means the standards, sizing criteria, BMPs, and other requirements established in this chapter.

7. "Concept plan" shall be submitted for review during the planning process. This plan should be considered to be a 30 percent development plan showing conceptually where stormwater practices will be located and how the stormwater will be routed to the facilities. This submittal shall include all of the information stated in this chapter.

8. "COSESCO" means Construction Site Erosion and Sediment Control Ordinance Permit issued by the Public Works Department.

9. "Developer" means a person, persons, or entity who undertakes land disturbance activities.

10. "Developer" means a person who undertakes land disturbance activities.

11. "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations whether as a single site or part of a larger common plan of development.

12. "Drainage easement" means a legal right granted by a landowner to a cable operator allowing the use of private land for stormwater management purposes.

13. "Enforcement Officer" means that person designated by the City having responsibility for administration and enforcement of this chapter.

14. "Existing conditions" means the circumstances of the site at the time of first review of site plans or upon-initial submittal of permit applications.

15. "Extreme flood protection" means managing the effects of larger storm events (10-year to 100-year recurrence intervals) on the stormwater management system, adjacent property, and downstream facilities and property. The management of these extreme events is accomplished using detention controls or floodplain management.

16. "Fee in lieu" means a payment of money in place of achieving or exceeding all or part of City stormwater requirements.

17. "Impervious surface" means surfaces (roads, sidewalks, driveways, and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, and stone, rooftops as well as soils compacted by urban development.

18. "Iowa Stormwater Management Manual" (ISWMM) means the current *Iowa Stormwater Management Manual* publication, by whatever name, as amended from time to time by Iowa Department of Natural Resources, and which recommends stormwater management guidelines and uniform sizing criteria and BMPs designed to address said guidelines.

19. "Land disturbance activity" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, tree clearing, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

20. "Low impact development" means an approach to stormwater management that attempts to mimic pre-development conditions by compensating for losses of rainfall abstraction through infiltration, evapotranspiration, surface storage, and increased travel time to reduce excess runoff.

21. "Landowner" means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

22. "Maintenance agreement" means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater BMPs.

23. "Native vegetation" refers to vegetation originating naturally in this region of the State. Native vegetation is not to be confused with all existing vegetation. Area preserved in native vegetation shall not contain noxious or invasive weeds as identified by Chapter 317.1A of the *Code of Iowa.*

24. "Overbank flood protection" means providing on-site stormwater detention to limit runoff peak flows rates from the five-year recurrence interval storm event to prevent downstream surcharge of conveyance systems and reduce overbank flooding. At the site development level, this can be accomplished by providing detention practices with multi-stage outlets that control the outflow from these events to pre-development conditions.

25. "Pre-development" means the nature of the site prior to development intended for stormwater calculations, existing conditions.

26. "Redevelopment" means any manmade change to a previously developed site, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations whether as a single site or part of a larger common plan of development.

27. "Stormwater management" means the use of BMPs that are designed in accordance with City stormwater requirements to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

28. "Stormwater management plan" means the plan produced by a Professional Engineer (P.E.) licensed in the State demonstrating how stormwater management will be accomplished by a development.

29. "Stormwater Pollution Prevention Plan" (SWPPP) means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

30. "Iowa Stormwater Management Manual (ISWMM)" means the current *Iowa Stormwater Management Manual* publication, by whatever name, as amended from time to time by Iowa Department of Natural Resources.

31. "Unified sizing criteria" means an integrated approach to managing stormwater runoff quality and quantity by addressing the adverse impacts of stormwater runoff from development. The intent is to comprehensively manage stormwater to remove pollutants and improve water quality, prevent downstream streambank and channel erosion, reduce downstream overbank flooding, and safely convey and reduce runoff from extreme storm events.

32. "Water quality volume" means the runoff resulting from rainfall depth of one point two five inches. By managing these storms, many of the "first flush" pollutants of concern will be effectively managed on-site.

161.06 PERMIT PROCEDURES AND REQUIREMENTS.

1. Permit Required. No landowner or developer shall receive any of the building, grading, or other land development permits required for land disturbance activities without first meeting the requirements of this chapter prior to commencing the proposed activity.

2. Application Requirements.

A. Unless specifically exempted by this chapter, any landowner or developer desiring a permit for a land disturbance activity shall submit to the City a permit application on a form provided for that purpose.

B. Unless otherwise exempted by this chapter, a permit application must be accompanied by the following in order that the permit application be considered:

(1) A Stormwater Management Concept Plan;

(2) A maintenance agreement; and

(3) A non-refundable permit review fee.

C. The Stormwater Management Concept Plan and maintenance agreement shall be prepared to meet the requirements of this chapter, and fees shall be those established by the City annually or more often by separate ordinance or resolution.

3. Application Review Fees. The fee for review of any land development application shall be based on the amount of land to be disturbed at the site; the fee structure shall be established by City, and said fees shall be paid prior to the issuance of any applicable City permits. All such revenue shall be credited to a City budgetary category to support the administration of this chapter.

4. Application Procedure.

A. All development or redevelopment projects shall begin with a pre-application meeting with the City staff. At said pre-application meeting, City staff will discuss the proposed project with the developer or developer representatives and will review preliminary information regarding stormwater management as indicated on the City's Stormwater Management Plan Review Checklist.

B. Applications for Land Disturbance Activity Permits must be filed for review with the office of the Clerk on any regular business day.

C. Permit applications shall include the following:

(1) Two copies of the Stormwater Management Concept Plan;

(2) Two copies of the maintenance agreement, and

(3) Any required review fees.

D. The City shall make a determination regarding the completeness of a permit application within 10 business days of the receipt of the application and notify the applicant in writing if the application is not complete, including the reasons the application was deemed incomplete.

E. Within 15 business days of the receipt of a complete permit application, including all documents as required by this chapter, City shall inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved by the Enforcement Officer.

F. If the permit application, Stormwater Management Concept Plan, or maintenance agreement are disapproved, the applicant may revise the Stormwater Management Concept Plan or agreement. If additional information is submitted, the City shall have 15 business days from the date the additional information is received to inform the applicant that the Stormwater Management Concept Plan and maintenance agreement are either approved or disapproved.

G. If the permit application, Stormwater Management Final Plan, and maintenance agreement are approved by City, all appropriate land disturbance activity permits shall be issued.

H. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date City notifies the permit holder that all stormwater BMPs have passed the final inspection required under permit conditions.

161.07 WAIVERS. Every applicant shall provide for stormwater management as required by this chapter, unless a written request is filed to waive implementation of BMPs, in whole or in part, and such waiver is granted. Requests to waive implementation of BMPs, in whole or in part, shall be submitted to City for approval.

1. A waiver of BMPs required by this chapter may be granted provided that at least one of the following conditions is established by applicant based on authoritative written evidence satisfactory to City:

A. The proposed development is not likely to impair attainment of the objectives of this chapter.

B. Alternative minimum requirements for on-site management of stormwater have been established in a Stormwater Management Final Plan that has been approved by City and fully implemented.

C. Provisions are made to manage stormwater by an off-site facility within the same watershed and that has been approved by the City. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices, and there is, in the City's sole judgment, a responsible entity legally obligated to monitor the performance of and maintain the efficiency of stormwater BMPs in accordance with a written and recorded maintenance agreement.

D. In instances where one of the above conditions is established, the applicant must further establish by authoritative written evidence satisfactory to City that the partial waiver will not result in any of the following impacts to downstream waterways:

(1) Deterioration of existing culverts, bridges, dams, and other structures; or

(2) Degradation of biological functions or habitat; or

(3) Accelerated stream bank or streambed erosion or siltation; or

(4) Increased threat of flood damage to public health, life, or property.

2. If the City finds that a waiver is appropriate because implementation of no on-site stormwater BMPs is feasible due to the natural or existing physical characteristics of a site, or that one of the conditions specified in Subsection 1 above cannot be established to a certainty, or that any one or more of the impacts to downstream waterways specified above cannot be entirely averted, the applicant shall execute a binding written agreement to accomplish one or more of the following mitigation measures selected by City:

A. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation or reconstruction of native ecosystems of lands strategically located in the watershed consistent with the purposes of this chapter, of a sufficient quantity to enable City or others to achieve City stormwater requirements with respect to a number of cubic feet of annual stormwater equivalent to the estimated number of cubic feet of annual stormwater that will not achieve City stormwater requirements as a consequence of the waiver.

B. The creation of one or more stormwater BMPs on previously developed properties, public or private, that currently lack stormwater BMPs, having a capacity to achieve City stormwater requirements with respect to a number of cubic feet of annual stormwater equivalent to the estimated number of cubic feet of annual stormwater that will not achieve City stormwater requirements as a consequence of the waiver.

C. Monetary contributions (fee in lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic

studies, monitoring of stormwater BMPs, and stream corridor stabilization practices). The monetary contribution required shall be in accordance with a fee schedule (unless the developer and the stormwater authority agree on a greater alternate contribution) established by City, based on the estimated cost savings to the developer resulting from the waiver and the estimated future costs to City to achieve City stormwater requirements with respect to a number of cubic feet of annual stormwater equivalent to the estimated number of cubic feet of annual stormwater that will not achieve City stormwater requirements as a consequence of the waiver. All of the monetary contributions shall be credited to an appropriate capital improvements program project and shall be made by the developer prior to the issuance of any building permit for the development.

D. Dedication of land or granting of an easement by the applicant of a value equivalent to the cost to City of the construction of an off-site stormwater management facility sufficient to achieve City stormwater requirements with respect to a number of cubic feet of annual stormwater equivalent to the estimated number of cubic feet of annual stormwater that will not achieve City stormwater requirements as a consequence of the waiver. The agreement shall be entered into by the applicant and City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

E. Factors that may generate waivers:

(1) Shallow bedrock.

(2) High groundwater.

(3) Hotspots or contaminated soils.

(4) City owned construction that was designed prior to 2019.

161.08 STORMWATER STANDARDS. Unless granted a waiver by the City, applicants shall meet the stormwater standards established in this chapter.

1. The site design shall provide on-site treatment during construction and post-construction to ensure no increases over pre-development conditions for the one-year, 24-hour storm event; the five-year, 24-hour storm event; and the 100-year, 24-hour storm event.

2. The site design shall provide for on-site water quality treatment to reduce potential increases in downstream water pollution. Practices or techniques shall be employed that capture and treat runoff from a one point two five-inch rainfall event, as further defined within the ISWMM. This standard would address approximately 90 percent of the rainfall events that occur in Central Iowa.

3. For the purposes of channel protection and as urban developments occur, some of the largest increases in runoff rate and volume (by percentage increase) occur during the smaller, more frequently occurring storm events. For this reason, practices or techniques shall be employed that provide extended detention of the one-year, 24-hour storm event, with release rates established as per methods defined within the ISWMM manual to provide a minimum drawdown period of 24 hours. This standard would address approximately 98 percent of the rainfall events that occur in Central Iowa.

4. For the purposes of overbank protection and to minimize surcharge of downstream storm sewer systems and reduce the frequency of flash flooding along urban streams and tributaries, practices, and techniques shall be employed that limit allowable peak release rates that are anticipated to occur post-development during the two-year and five-year 24-hour storm events to levels no greater than those expected to occur from pre-development conditions for a given site from an equivalent storm event (e.g. the post-development release rate from five-year storm event will be no greater than the pre-development release rate from a five-year storm event).

5. For the purposes of extreme protection and to reduce the frequency and impacts caused by larger flood events practices and techniques shall be employed that limit allowable peak release rates that are anticipated to occur post-development during the 10-, 25-, 50- and 100-year, 24-hour storm events to levels no greater than those expected to occur from pre-development conditions on a given site from a five-year, 24-hour storm event (e.g. the post-development release rate from a 100-year storm event will be no greater than the pre-development release rate from a five-year storm event).

6. The site design shall retain on-site for recharge a portion of the water quality treatment volume calculated as a soil specific recharge factor multiplied by the volumetric runoff coefficient multiplied by the area and all divided by 12. The soil specific recharge factor is given as 0.51 for Hydrologic Soil Group (HSG) A soils, 0.34 for HSG B soils, 0.17 for HSG C soils, and zero point zero eight for HSG D soils. The volumetric runoff coefficient is calculated as 0.05 + 0.009 multiplied by the site impervious percentage. See the *Iowa Stormwater Management Manual* for additional clarification on the calculation. For areas of the site where there is no feasible way to achieve the recharge requirement, other options may be considered by the City if the options meet the performance standard listed for sites with restrictions in Subparagraph 4 below.

7. Applicant shall fully attempt to comply with the standards in Subsections 1 through 3 above. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site. If full compliance is not possible, the following flexible treatment options shall be used:

A. Applicant shall document the flexible treatment options sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. If Alternative #2 cannot be met, then Alternative #3 shall be met. When all of the conditions are fulfilled within an alternative, this sequence is completed.

B. Recharge techniques considered shall include infiltration, reuse, and rainwater harvesting, and canopy interception and evapotranspiration or additional techniques included in the *Iowa Stormwater Management Manual*.

C. Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.

D. Factors to be considered for each alternative will include:

(1) Karst or Coal geology.

(2) Shallow bedrock.

(3) High groundwater.

(4) Hotspots or contaminated soils.

(5) Excessive cost.

(6) Poor soils (infiltration rates that are too low or too high, problematic urban soils).

E. Alternative #1: Applicant attempts to comply with the following conditions:

(1) Achieve recharge to the maximum extent practicable, and

(2) Treat by means of a filtration-based stormwater treatment facility, the water quality volume determined in standard two above in order to provide removal of fine particles, and

(3) Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.

F. Alternative #2: Applicant attempts to comply with the following conditions:

(1) Achieve recharge to the maximum extent practicable, and

(2) Remove 80 percent of the annual total suspended solids load, and

(3) Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.

G. Alternative #3: Off-Site Treatment. Off-site mitigation, as outlined in Section 161.07(2) of the required treatment volume that cannot be provided on site can be used to protect Walnut Creek or North Walnut Creek.

8. The site shall be designed to provide vegetated buffers for water quality protection adjacent to receiving channels and waters. Buffers shall commence at "top of bank," or at the delineated boundary of the water body. Buffer width as based on land use and are as follows:

A. Residential.....30 feet.

B. Industrial .....50 feet.

C. Mid or High Density Residential and Commercial.....50 feet.

D. Redevelopment of infill parcels that are surrounded by existing development shall be considered on a case-by-case basis. The intent of this section of chapter is not to make existing lots undevelopable.

9. The site shall be designed using the better site design process. Better site design involves techniques applied early in the design process to preserve natural areas, reduce impervious cover, distribute runoff, and use pervious areas to more effectively treat stormwater runoff. Site design should address open space protection, impervious cover

minimization, runoff distribution and minimization, and runoff utilization through considerations such as:

A. Open space Protection and Restoration.

(1) Conservation of existing natural areas (upland and wetland).

(2) Reforestation.

(3) Re-establishment of prairies.

(4) Restoration of wetlands.

(5) Establishment or protection of stream, shoreline, and wetland buffers.

(6) Re-establishment of native vegetation into the landscape.

B. Reduction of Impervious Cover.

(1) Reduce new impervious cover through redevelopment of existing sites and use of existing roadways, trails etc.

(2) Minimize street width, parking space size, driveway length, sidewalk width.

(3) Reduce impervious surface footprint (e.g., two-story buildings, parking ramp).

C. Distribution and Minimization of Runoff.

(1) Utilize vegetated areas for stormwater treatment (e.g., parking lot islands, vegetated areas along property boundaries, front and rear yards, building landscaping).

(2) Direct impervious surface runoff to vegetated areas or to designed treatment areas (roofs, parking, driveways drain to pervious areas, not directly to storm sewer or other conveyances).

(3) Encourage infiltration and soil storage of runoff through grass channels, soil compost amendment, vegetated swales, rain gardens, etc.

(4) Plant vegetation that does not require irrigation beyond natural rainfall and runoff from the site.

D. Runoff Utilization.

(1) Capture and store runoff for use for irrigation in areas where irrigation is necessary.

10. The following general criteria shall be incorporated in site design for stormwater runoff to protect surface and groundwater and other natural resources:

A. Reduce impacts on water.

B. Protect soils.

C. Preserve vegetation.

D. Decrease runoff volume.

E. Decrease erosion and sedimentation.

F. Decrease flow frequency, duration, and peak runoff rates.

G. Increase infiltration (groundwater recharge).

H. Maintain existing flow patterns.

I. Reduce time to peak flows by increasing the time of concentration to and through storm sewers.

J. Store stormwater runoff on-site.

K. Avoid channel erosion.

11. Topsoil Requirements.

A. Preservation. No topsoil shall be permanently removed from any construction site in accordance with the Iowa Department of Natural Resources NPDES General Permit #2. Topsoil from pre-development pervious areas should be maintained on-site and respread in the post-development conditions. The City may require, at developers' expense, soil borings to measure the pre-development and post-development topsoil depths to ensure compliance.

B. Compaction. For the purposes of compliance with the Iowa Department of Natural Resources NDPES General Permit #2 requirements, the minimum standard for "minimizing soil compaction" shall be defined as working the soil prior to seeding or sodding such at a penetrometer can be inserted into the upper six-inch with less force than 200 psi. As an alternative to the penetrometer test, a soil with a bulk density of less than one point six grams or cubic centimeter shall be deemed compliant with this requirement.

161.09 APPROVAL OF STORMWATER MANAGEMENT CONCEPT PLAN. No application for development will be accepted unless it includes a Stormwater Management Concept Plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. The Stormwater Management Concept Plan shall meet the following requirements:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.

2. Indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices BMPs, with clear citations to the *Iowa Stormwater Management Manual*.

3. Include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the stormwater BMPs proposed for managing stormwater generated at the project site, refer to Section 161.06(4). The intent of this conceptual planning process is to determine the type of stormwater BMPs necessary for the proposed project and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal, the following information shall also be included in the Stormwater Management Concept Plan:

A. A soil management plan as defined by the *Iowa Stormwater Management Manual* shall be provided and include a technical assessment of soils that identifies the soil series and the site limitations based on soils data provided in the Web County Soil Survey hosted by Natural Resources Conservation Service (NRCS). It may only be used if soils have not been highly disturbed. Soil borings shall be included when necessary to confirm

suitable site conditions for placement of buildings with basements and related structures, especially in areas with hydric soils and shallow depth to groundwater. If a stormwater BMP depends on the hydraulic properties of soils, then the assessment shall include soil borings and measurements of percolation or infiltration rates. The number and location of required soil borings or soil test sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP. Borings may range from a minimum of five feet to 20 feet below subgrade depending on the size of the BMP. This information shall be used to provide a summary of the associated risks and potential for adequate drainage related to infiltration practices, groundwater mounding, and basement flooding. Consultation with a Certified Professional Soil Scientist, Soil Classifier, or Geotechnical Engineer may be necessary or required.

B. A map, or maps, indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management, and sediment and erosion BMPs. The maps will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads, and easements; and the limits of clearing and grading. A written description of the site plan and justification of proposed changes in pre-development conditions may also be required. A copy of the current SWPPP may satisfy this requirement.

C. Sufficient engineering analysis to show that the proposed BMPs are capable of achieving City stormwater requirements for the site in compliance with this chapter.

D. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive BMPs that provide particular opportunities or constraints for development.

E. Landscaping and stabilization shall be accomplished to prevent stormwater violations or impairment of BMPs. In addition, a landscaping plan must be submitted with the final as-built drawings describing the vegetation stabilization and management techniques to be used at the site after construction is completed. This plan will include the entity responsible for vegetation at the site and practices that will be used to ensure adequate vegetative cover.

F. A written description of the required maintenance burden for any proposed BMPs.

G. The City may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

H. For development occurring on a previously developed site, an applicant shall be required to include within the Stormwater Management Concept Plan BMPs for controlling existing stormwater runoff discharges from the site in accordance with this chapter to the maximum extent practicable. The

Stormwater Management Concept Plan shall be referred for comment to all other interested agencies, and any comments must be addressed in a Stormwater Management Final Plan.

161.10 APPROVAL OF STORMWATER MANAGEMENT FINAL PLAN. No Building, Grading, or Sediment Control Permit shall be issued until a satisfactory Stormwater Management Final Plan (or a waiver thereof) shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this chapter. After review of the Stormwater Management Concept Plan, and modifications to that plan as deemed necessary by City, a Stormwater Management Final Plan must be submitted to the City for approval. The Stormwater Management Final Plan, in addition to the information included in the Stormwater Management Concept Plan, shall:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.

2. Indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices, with clear citations to the *Iowa Stormwater Management Manual*.

3. Include a signed and dated certification under penalty of perjury by the preparer of the Stormwater Management Final Plan that it complies with all requirements of this chapter and the SUDAS Design Manual, meets the submittal requirements outlined in the *Iowa Stormwater Management Manual*, is designed to achieve City stormwater requirements, and that City is entitled to rely upon the certification as due diligence on the part of City.

4. The Stormwater Management Final Plan shall also include:

A. A detailed summary of how and why the Stormwater Management Final Plan differs, if at all, from the Stormwater Management Concept Plan previously submitted.

B. Contact information, including, but not limited to, the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

C. Topographic base map, consisting of a one inch equals 200 feet topographic base map, of the site which extends a minimum of 300 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown. A minimum of two feet contours shall be shown on-site and two feet contours outside of the proposed site.

D. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the *Iowa Stormwater Management Manual*. Such calculations shall include:

(1) Description of the design storm frequency, intensity, and duration;

(2) Time of concentration;

(3) Soil curve numbers or runoff coefficients;

(4) Peak runoff rates and total runoff volumes for each watershed area;

(5) Infiltration rates, where applicable;

(6) Culvert capacities;

(7) Flow velocities;

(8) Data on the increase in rate and volume of runoff for the design storms referenced as referenced in the NOAA Atlas 14, Volumes 8 and 9 (April 2013); and

(9) Documentation of sources for all computation methods and field test results.

E. If a stormwater BMP depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP.

F. A maintenance and repair plan for all stormwater BMPs including detailed maintenance and repair procedures to ensure their continued efficient function. These plans will identify the parts or components of a stormwater BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

G. A detailed landscaping plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the soil and water conservation district.

H. Proof of permanent recorded maintenance easements that will ensure access to all stormwater BMPs at the site for the purpose of inspection and repair. These easements will be recorded with the Stormwater Management Final Plan and will remain in effect even with transfer of title to the property.

I. Proof of a recorded maintenance agreement binding on all subsequent owners of land served by stormwater BMPs to ensure maintenance and repair in accordance with the specifications of this chapter.

J. Copies of all existing SWPPPS (as required by the City's COSESCO ordinance) current as of the date of submission of the Stormwater Management Final Plan for all construction activities related to implementing any on-site stormwater BMPs.

K. Proof that the applicant has acquired all other applicable environmental permits for the site, or that no other such permits are required, prior to submission of the Stormwater Management Final Plan to the City.

L. For lot development impacted by stormwater BMPs and conveyance features:

(1) The permit holder shall provide to the Municipal Engineer, or designated City representative, an Elevation Certificate that is signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.

(2) The Elevation Certificate shall certify that the protected level (lowest opening or protective flood barrier that achieves the same result) of all buildings shall be a minimum of three feet above the 100-year water surface elevation of stormwater BMPs.

(3) Building foundations adjacent to stormwater BMPs or stormwater infrastructure (i.e. conveyance features, inlets, manholes) shall be three feet above the 100-year water surface elevation.

M. Accommodating Upstream Drainage Areas. Any necessary and appropriate stormwater BMPs shall be designed to accommodate runoff from any upstream area potentially draining into or through the area to be subdivided, whether such area is inside or outside the area to be subdivided. Such design shall assume that the upstream area upon development or redevelopment will be regulated such that volume of surface water runoff shall be equal to the runoff from the current land use condition.

N. Protecting Downstream Drainage Areas. Any development shall provide for mitigation of any overload condition reasonably anticipated on any existing downstream stormwater BMPs outside the area to be subdivided, provided that the development or use of the area to be subdivided creates or contributes to such condition.

161.11 PERFORMANCE SECURITY OR BOND.

1. The City shall require the submittal of an installation performance security or bond prior to issuance of a permit in order to ensure that the stormwater BMPs are installed by the permit holder as required by the approved Stormwater Management Final Plan.

2. The amount of the installation performance security or bond shall be the total estimated construction cost of the stormwater BMPs approved under the permit, plus 25 percent. The installation performance security or bond shall contain forfeiture provisions for failure to complete work specified in the Stormwater Management Final Plan.

3. The installation performance security or bond shall be released in full only upon submission of "as-built plans" of all stormwater BMPs specified in the Stormwater Management Final Plan and written certification by a professional engineer that the stormwater BMPs have been installed in accordance with the approved Stormwater Management Final Plan and other applicable provisions of this chapter. The City will make a final inspection of stormwater BMPs to ensure compliance with the approved Stormwater Management Final Plan and the provisions of this chapter. Provisions for a partial pro rata release of the installation performance security or bond based on the completion of various development stages can be made at the discretion of City.

4. The installation performance security or bond shall inure only to the benefit of the City for purposes of completing, modifying, or correcting the stormwater BMPs to comply with this chapter.

161.12 MAINTENANCE PERFORMANCE SECURITY OR BOND.

1. The City shall also require the submittal of a maintenance performance security or bond prior to issuance of a permit in order to insure that the stormwater BMPs are maintained in an effective state for a minimum of 10 years.

2. This maintenance performance security or bond may be released by the City upon a showing satisfactory to the City that:

A. The permit holder has assigned to another bona fide, financially responsible legal entity, such as a homeowners' or similar organization organized under State law, responsibility for maintenance of the stormwater BMPs in an effective state for the balance of the 10-year period after assignment; and

B. Said assignee has fully accepted such responsibility in a written document that qualifies for recording and has been recorded in the County Recorder's office under State law; and

C. Said assignee posts a substitute maintenance performance security or bond subject to release at the end of the initial 10-year period upon a further showing by the assignee that the stormwater BMPs are, in the City's sole judgment, still reasonably effective.

3. This maintenance performance security or bond shall inure only to the benefit of the City to ensure the proper maintenance of the stormwater BMPs.

4. This maintenance and performance security or bond may be issued on an annual basis, provided that there is no lapse in coverage.

5. The maintenance performance security bond amount shall be for 25 percent of the total cost of the overall permitted project, unless otherwise specified by the City.

161.13 CONSTRUCTION INSPECTION.

1. The applicant must notify the City in advance before the commencement of construction. Regular inspections of construction of the stormwater BMPs shall be conducted by City or City's designated representative. Inspections will be conducted before any land disturbing activity begins, at the time of footing inspections, at the completion of the project; and prior to the release of financial securities. All inspections shall be documented, and written reports prepared that contain the following information:

A. The date and location of the inspection; and

B. Whether construction is in compliance with the approved Stormwater Management Concept Plan; and

C. Variations, if any, from the approved Stormwater Management Concept Plan.

2. If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall

proceed until any violations are corrected and all work previously completed has received approval by City.

3. After construction is completed, applicants are required to submit actual "as-built" drawings satisfactory to City for any stormwater BMPs located on-site. The drawings must show the final design specifications for all stormwater BMPs and must be certified by a professional engineer. A final inspection by City is required before the release of the installation performance security or bond can occur.

4. Landscaping and stabilization shall be accomplished to prevent violation of City stormwater requirements or impairment of BMPs. In addition, a landscaping plan must be submitted with the final as-built drawings describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the local soil and water conservation district, and must be approved prior to receiving a permit. This is by reference incorporated into the site plan review process.

161.14 MAINTENANCE AND REPAIR OF STORMWATER BMPS. The applicant or owner of every site or an assignee qualified pursuant to Section 161.12 shall be responsible for maintaining as-built stormwater BMPs in an effective state as determined, in the sole judgment of City, in perpetuity or until further redevelopment of the site.

1. Maintenance and Repair Easement. Prior to the issuance of any permit for development involving any stormwater BMP, the applicant or owner of the site must execute a maintenance and repair easement agreement that shall be binding on all subsequent owners of land served by the stormwater BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for periodic inspection by City, or City's designee, and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City stormwater requirements. The easement agreement shall be recorded by City at the expense of the permit holder or property owners.

2. The applicant or owner of every site or an assignee qualified pursuant to Section 161.14(1) shall be responsible for providing as-built drawings at the completion of the project and maintaining as-built stormwater BMPs in an effective state as determined in the sole judgement of City.

3. Maintenance Covenants.

A. Maintenance of all stormwater BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded prior to the Stormwater Management Final Plan approval. The creation of these maintenance covenants are the responsibility of the property owner or their designated agent. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts.

B. The City, in lieu of a maintenance covenant, may, but is not required to, accept dedication of any existing or future stormwater BMP to include City responsibility for maintenance and repair, provided that:

(1) The maintenance and repair of such element will not impose an undue burden on other City taxpayers who enjoy little if any benefit from the BMP;

(2) The BMP meets all the requirements of this chapter; and

(3) The dedication includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

By mutual agreement of the City and the party responsible for maintenance for a stormwater BMP, the City may receive an annual payment to cover costs of maintenance and assume maintenance responsibilities. Said payment will be calculated to cover the expected costs of maintenance.

4. Requirements for Maintenance Covenants. All stormwater BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include, but are not limited to, removal of silt, litter, and other debris from all stormwater treatment and conveyance facilities, including ponds, infiltration basins, rain gardens, catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity responsible under a written maintenance agreement within 30 days, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater BMPs. In the event the identified maintenance or repair cannot be completed within 30 days of notice, the responsible party must contact the City with 30 days of notice to explain why repair or maintenance cannot be completed within 30 days and provide a plan for completing repair or maintenance.

5. Inspection of Stormwater BMPs. Inspection programs may be established on any reasonable basis, including, but not limited to:

A. Routine inspections;

B. Random inspections;

C. Inspections based upon complaints or other notice of possible violations;

D. Inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;

E. Inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or federal water or sediment quality standards or the NPDES Stormwater Permit; and

F. Joint inspections with other agencies inspecting under environmental or safety laws.

Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater BMPs, and evaluating the condition of stormwater BMPs.

6. Right of Entry for Inspection. When any new stormwater BMP is installed on private property, or when any new connection is made between private property and a public stormwater management facility, sanitary sewer or combined sewer, the property owner shall grant to City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when City has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.

7. Records of Installation and Maintenance and Repair Activities. Parties responsible for the operation and maintenance of stormwater BMPs shall submit to the City an annual maintenance and inspection report, including all records of the installation and of all maintenance and repairs conducted. These records shall be made available to City during inspection of the facility and at other reasonable times upon request. The City may also request an as-built drawing of stormwater BMP to determine compliance with original design, if deemed necessary by the City.

8. As-Built Drawings. At the time of final plat an as-built drawing will be provided to the City for all stormwater BMPs. At such time as a developer transfers control of stormwater BMPs to an HOA, the City or other responsible party, the developer shall provide notice to the City and the City shall have the right to confirm stormwater BMPs match the as-built provided at final plat prior to transfer. A maintenance bond, agreement to complete, or letter of credit shall be provided to the City for any required work to stormwater BMPs to correct to as-built standard prior to transfer of ownership or responsibility. After transfer of ownership or responsibility, the bond or letter of credit will be released.

9. Failure to Maintain Stormwater BMPs. If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, the City, after reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the stormwater BMP becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the stormwater BMP in writing. Upon receipt of that notice, the responsible person shall have 30 days to effect maintenance and repair of the stormwater BMP in an approved manner. After proper notice, the City may assess, jointly and severally, the owners of the stormwater BMP, or the property owners or the parties responsible for maintenance under any applicable written agreement, for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes.

161.15 ENFORCEMENT AND PENALTIES. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

1. The City may issue a stop work order for violation of any provision of this chapter. The stop work order shall be applicable to the lot within the development

causing the violation and shall remain in effect until the violation is corrected and a subsequent inspection completed. In the event a building is completed and occupied when a violation occurs, the City will not issue additional permits for that property.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa*, pursuant to Chapter 3.

3. Enforcement pursuant to this section shall be undertaken by City upon the advice and consent of the City Attorney or other counsel employed by City.

4. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

5. Occupancy permits shall not be granted until all stormwater BMPs have been inspected and approved by City.

161.16 APPEAL. Administrative decisions by City staff and enforcement actions may be appealed by the developer or property owner to the Council pursuant to the following rules:

1. The appeal must be filed in writing with the Clerk within five business days of the decision or enforcement action.

2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the Enforcement Officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.

3. The Enforcement Officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the Enforcement Officer intends to introduce at the hearing, including the names and addresses of all witnesses the Enforcement Officer intends to call, and copies of all documents the Enforcement Officer intends to introduce at the hearing.

4. The Clerk shall notify the applicant and the Enforcement Officer by ordinary mail and shall give public notice, in accordance with Chapter 21 of the *Code of Iowa*, of the date, time, and place for the regular or special meeting of the Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four or more than 20 days after the filing of the appeal. The rules of evidence and procedure and the standard of proof to be applied shall be the same as provided by Chapter 17A of the *Code of Iowa*. The applicant may be represented by counsel at the applicant's expense. The Enforcement Officer may be represented by the City Attorney or by an attorney designated by the Council at City expense.

5. The decision of the Council shall be rendered in writing and may be appealed to the Iowa District Court.

[The next page is 1489]

CHAPTER 163

DEMOLITION AND RAZE PERMIT

163.01 Demolition Permit Required
163.02 Application for Permit
163.03 Demolition with Explosives
163.04 Abatement Ordered - Bond Required
163.05 Clearing and Leveling the Site
163.06 Fencing or Covering Excavation of Building
163.07 Time Limit for Demolitions
163.08 Removal and Disposal
163.09 Disconnection of Sewer and Water
163.10 Plugging Sewers for Abandoned, Razed, Demolished, or Destroyed Buildings
163.11 Right of the City to Enter Upon Premises in the Event of Noncompliance
163.12 Miscellaneous Provisions

163.01 DEMOLITION PERMIT REQUIRED.

1. No building in the City can be demolished or razed until a permit authorizing such work has been obtained from the Building Official.

2. No permit for the demolition of a building shall be issued other than in conformity with the provisions of this chapter, as well as in conformity with the provisions of other laws and ordinances applicable to historic preservation and to the demolition of buildings.

3. Except as provided in this section, a Demolition Permit that has expired shall be null and void, and before any demolition work is subsequently commenced, a new permit therefore shall be obtained. The fee for such permit shall be at the same rate as the original permit.

4. If a Demolition Permit to remove an unsafe building or a building that is the subject of a public nuisance action has expired, the Building Official shall order the prompt removal of such structure, in accordance with all requirements of this chapter. All of the costs attendant to this action, including administrative costs, shall be either assessed against the property or collected from the owner, unless otherwise directed by the Council.

163.02 APPLICATION FOR PERMIT. An application for demolition shall be made only by the person, partnership, corporation, or realty trust which is the legal deed holder of the building at the time of such application. The applicant must comply with all federal, State, and local regulations pertaining to the disposal of hazardous wastes and building demolition. The application must be made on the form provided by the City. No permit for demolition of a building shall be granted until plans for use or development of the site after demolition have been filed with the Zoning Administrator and found to comply with all laws pertaining to the issuance of a Building Permit and where applicable, a site plan, unless it is subject to a public nuisance or unsafe building, all approvals necessary for the issuance of such a Building Permit or Certificate of Occupancy including, without limitation, any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a Demolition Permit under this section.

163.03 DEMOLITION WITH EXPLOSIVES. A permit for the demolition of a building or structure by the use of explosives may be issued by the Council subject to the following conditions, in addition to those set forth in Section 163.02:

1. The applicant for a permit must demonstrate to the Council the need for demolition by explosives rather than demolition by conventional means and must

demonstrate that demolition by explosives can be safely conducted at the specific location requested;

2. The Building Official, Public Works Director, Fire Chief, and Police Chief shall review the application and submit their opinions to the Council concerning whether or not the demolition can be safely conducted, together with any recommendations they may have;

3. The applicant shall pay the City in advance for reasonable expenses that will be incurred by the City in furnishing necessary security and police protection in the vicinity of the demolition site;

4. The applicant shall observe all applicable federal, State, and local laws in the course of the demolition, including, but not limited to, the following:

A. The applicable provisions of the *Fire Prevention Code* relating to the storage, transportation, and use of explosives.

B. The rules and regulations of the United States Environmental Protection Agency relating to the demolition of buildings or structures containing asbestos materials or other hazardous air pollutants.

5. The applicant shall meet all other requirements of this chapter relating to the demolition of structures or buildings; provided, however, that if a conflict exists between the provisions of this subsection and other sections of this Code, the provisions of this subsection shall be deemed to be controlling;

6. The Council shall at any time have the authority to impose additional requirements and safety precautions in the interest of the public health, safety, and welfare;

7. Such other information as shall be reasonably required by the Building Official.

163.04 ABATEMENT ORDERED - BOND REQUIRED.

1. Before a permit is issued to remove a building which has been ordered removed as a public nuisance and which period of time granted by the City or by the courts for removal or other remedial action by the applicant or other party of interest has expired, the applicant may be required to post a cash bond equal to the estimated costs of the removal of the building and the disconnection of the existing utility services. If the applicant does not remove the building at the time the permit expires at a time specified by the Building Official, such bond shall be forfeited and used toward the costs of the City to remove it.

2. If the building is removed by the applicant prior to the time the permit expires, such bond shall be returned to the applicant. A return of the bond does not exempt the applicant from further assessments of the real estate for costs that have occurred prior to the issuance of the permit.

163.05 CLEARING AND LEVELING THE SITE.

1. The site of any demolition shall be properly cleared of debris, rubbish, and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded, or treated in some other manner acceptable to the Building Inspector so as to prevent blowing dust, dirt, or sand. Excavations remaining after demolition shall be

filled, graded, and leveled off, not later than 15 consecutive days after demolition is completed.

2. Upon completion of the demolition work, the site shall be left in a clean, smooth condition. Inorganic building rubble, sand, clean earth, or other approved fill material may be used to fill excavations, basements, and depressions, provided that the top 12 inches shall be clean earth or its equivalent in terms of surface smoothness, free from dust, and cleanliness.

3. Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Building Inspector, upon notification by the permit holder, the owner or their agent, in writing and upon forms provided by the Building Inspector for that purpose, shall, within 72 hours inspect each excavation, or part thereof, before applicant is permitted to fill any excavation.

4. It shall be unlawful to fill any such excavation without inspection and approval of the Building Inspector. Voids in filled excavations shall not be permitted. In the event of the unavailability of the Building Inspector to conduct an inspection within 72 hours after written notice; the Public Works Director, or designee, may conduct inspection. Said opinion shall be deemed sufficient approval by the City provided that a written copy of the opinion delivered to the Clerk is at least 48 hours before filling of the excavation commences.

163.06 FENCING OR COVERING EXCAVATION OF BUILDING. Before the demolition or razing of any building or structure has commenced, the building or structure undergoing such demolition or razing and all debris on the property site shall be fenced and closed off to access by unauthorized persons with a fence not less than four feet in height. When such demolition and razing have reduced the building or structure to ground level, the resulting excavation consisting of a basement, cellar, or other underground excavation shall be promptly filled to ground level not more than 15 days after said building or structure has been lowered to ground level.

163.07 TIME LIMIT FOR DEMOLITIONS. The razing or demolition of any building or structure within the City limits shall be completed within 30 days after such demolition or razing first commences. Completion of razing or demolition shall include the removal of all debris resulting from such razing or demolition from the site where said building or structure was located.

163.08 REMOVAL AND DISPOSAL. Removal, transportation, and disposal of all hazardous waste, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable State, federal, and local statutes, ordinances, and regulations.

163.09 DISCONNECTION OF SEWER AND WATER. No permit to demolish shall be issued until it has been established that existing sewer or water services have been properly disconnected and approved.

163.10 PLUGGING SEWERS FOR ABANDONED, RAZED, DEMOLISHED, OR DESTROYED BUILDINGS. From and after the effective date of this chapter, all sewer drains, sewer connections, and water service line serving any razed or demolished building or any building that has been destroyed by fire or other casualty shall be sealed, plugged, or capped by concrete or a mechanical watertight device where such sewer line exits from the building. Any plugs, caps, or seals applied under the provisions of this chapter shall be made between the sidewalk and the curb or such other point designated by the Public Works Director and shall

remain exposed until they have been viewed and approved by the Public Works Director. Failure to obtain a permit as herein required, or failure to seal, plug, or cap a sewer drain or water service line within 10 days after notice to do so by the Public Works Director, or failure to allow such plug, cap, or seal to remain exposed until inspected by the Public Works Director shall constitute a violation of this chapter.

163.11 RIGHT OF THE CITY TO ENTER UPON PREMISES IN THE EVENT OF NONCOMPLIANCE. Authorized representatives of the City shall have the right to enter upon any premises where the razing or demolition of any building or structure is in progress for the purpose of constructing the fence or for the purpose of providing fill for the excavation where the owner of said property has failed to do so as required by this chapter and assess the costs as a lien on the property.

163.12 MISCELLANEOUS PROVISIONS.

1. Demolition permits shall lapse and be void unless the work authorized thereby is commenced within six months from the date thereof or completed within 30 days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required 30 days must have special approval from the Building Inspector.

2. The Building Official shall have the authority to impose at any time reasonable requirements and safety precautions in the interest of public health, safety, and welfare, which, in their opinion, are commensurate with the severity of hazard, either demonstrated or anticipated, provided that such requirements may be appealed to and reviewed by the Board of Appeals at the request of the affected party.

3. The discharging, loading, or dumping of building materials from any building shall be accomplished in such manner as to minimize the creation of dust and scattering of debris. Materials shall not be dropped by gravity to any point lying outside the building walls except through an enclosed chute, unless such materials are dust free and the height of the drop is at least equal to the horizontal distance to the nearest property or barricade line. Where such horizontal distance is not available and practical necessity dictates the dropping of relatively large masses of materials, the Building Official may approve appropriate protective measures designed to provide protection from danger equivalent to that afforded by the otherwise required setback; provided, however, that in all cases such materials shall be handled in a manner approved by the air pollution control division of the County Health Department.

4. When necessary, as determined by City officials, in order to protect the public health, safety, or welfare, every demolition project shall be barricaded, fenced, lighted, and signed with warning or directional signs in a manner approved by the Building Official or Public Works Director. The Building Official may also require the presence of approved security guards or flag persons. Such barricades, fences, lights, and signs as may be deemed necessary by the Building Official for protection of the public shall be maintained after completion of the demolition work until such time as the site is cleaned of all debris and all excavations, basements, and depressions in the ground are restored to grade rendered harmless.

5. Adequate precautions shall be taken to ensure that procedures or conditions relating to the demolition work do not constitute a fire hazard. If, in the opinion of the Fire Chief, a fire hazard exists or is likely to exist, they may order the cessation of work or require that appropriate protective measures approved by them are taken.

6. All streets, alleys, and public ways adjacent to the demolition site shall be kept free and clear of any rubbish, refuse, and loose material resulting from the demolition work, unless an Obstruction Permit for such space has been obtained.

7. Demolition of structures subject to public nuisance action shall include removal of all footing and foundation materials unless an obstruction permit for such space has been obtained.

8. All debris must be hauled away at the end of each week for the work that was completed during that week. No combustible material shall be used for backfill but shall be hauled away. There shall not be any burning of materials on the site of the razed building.

9. If any razing or removal operation under this section results in, or would likely result in, dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance.

10. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

[The next page is 1511]

CHAPTER 165

ZONING CODE - GENERAL PROVISIONS

165.01 Title
165.02 Jurisdiction
165.03 Purpose
165.04 Consistency with Comprehensive Development Plan
165.05 Conflicting Provisions
165.06 Relief from Other Provisions
165.07 Publication
165.08 Severability

165.01 TITLE. Chapters 165 through 177 of this Code shall be known as the Zoning Code of the City.

165.02 JURISDICTION. The provisions of the Zoning Code shall be applicable to all property within the corporate limits of the City as authorized by Chapter 414 of the *Code of Iowa*.

165.03 PURPOSE. The purposes of the Zoning Code are to:

1. Serve the public health, safety, and general welfare of the City and its jurisdiction.
2. Classify property in a manner that reflects its suitability for specific uses.
3. Provide for sound, attractive development within the City and its jurisdiction.
4. Encourage environmentalism of adjacent land uses.
5. Protect environmentally sensitive areas.
6. Further the objectives of the Comprehensive Development Plan of the City.

165.04 CONSISTENCY WITH COMPREHENSIVE DEVELOPMENT PLAN. The City intends that this Zoning Code and any amendments to it shall be consistent with the City's Comprehensive Development Plan. It is the City's intent to amend this Code whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan.

165.05 CONFLICTING PROVISIONS. The Zoning Code shall be held to provide the minimum requirements necessary for the promotion of public health, safety, and welfare. If any provision of the Zoning Code conflicts with any other provision of the Zoning Code, any other ordinance of the City, or any applicable State or federal law, the more restrictive provision shall apply.

165.06 RELIEF FROM OTHER PROVISIONS. Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or federal ordinance or statute.

165.07 PUBLICATION. This Code shall be published in book or pamphlet form and, together with the maps being a part hereof, shall be filed with the City Administrator.

165.08 SEVERABILITY. If any section, provision, or part of the Zoning Code be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Zoning Code as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

[The next page is 1517]

CHAPTER 166

ZONING CODE - DEFINITIONS

166.01 Purpose
166.02 General Construction of Language
166.03 Definition of Terms

166.01 PURPOSE. The purpose of this chapter is to promote consistency and precision in the interpretation of this Zoning Code. The meaning and construction of words as set forth shall apply throughout this Zoning Code, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

166.02 GENERAL CONSTRUCTION OF LANGUAGE. The following general rules of construction apply to the text of the Zoning Code.

1. Headings. Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of the Zoning Code.

2. Illustration. In the case of any real or apparent conflict between the text of this Zoning Code and any illustration explaining the text, the text shall apply.

3. Conjunctions. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

   A. "And" indicates that all connected items or provisions apply.

   B. "Or" indicates that the connected items or provisions may apply singly or in any combination.

   C. "Either ... or" indicates that the connected items or provisions shall apply singly but not in combination.

4. Referenced Agencies. Unless otherwise indicated, all public officials, bodies, and agencies referred to in this chapter are those of the City.

166.03 DEFINITION OF TERMS. For the purposes of this Zoning Code, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

1. Words beginning with "A."

   A. "Absolute photometry" means photometric measurements (usually of a solid-state luminaire) that directly measure the footprint of the luminaire. Reference Standard IES LM-79.

   B. "Abutting" means having lot lines or district boundaries in common, including property separated by a public street or alley. This term is used interchangeably with "adjacent."

   C. "Accessory structure" means a structure which is incidental to and customarily associated with a specific principal use or building on the same

site. The structure may or may not contain a dwelling unit. See "Dwelling, Accessory."

D. "Accessory use" means a use which is incidental to and customarily associated with a specific principal use on the same site.

E. "Addition" means any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

F. "Administration" means governmental office uses providing administrative, clerical, or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, State, County, and City offices.

G. "Administrative Official" means the City Administrative Official or appropriate designee.

H. "Adult entertainment" means any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes, depicts or describes sexual conduct. This category includes the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters.

I. "Alley" means a public right-of-way which is used as a secondary means of access to abutting property.

J. "Alteration" means any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.

K. "Amateur radio tower" means a structure for the transmission or broadcasting of electromagnetic signals by FCC-licensed amateur radio operators.

L. "Apartment" means a dwelling unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.

M. "Astronomic time switch" means an automatic lighting control device that switches outdoor lighting relative to the time of solar day with the time of year.

N. "Attached" means having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway, façade wall extension, or archway.

O. "Automotive and equipment services" means an overarching term for the following establishments or places of business primarily engaged in the sale or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

(1) Auto Services. Provision of fuel, lubricants, parts, and accessories, and incidental services to motor vehicles; and washing and

cleaning or repair of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities, but exclude dismantling, salvage, or body and fender repair services.

(2) Repair Services. Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

(3) Equipment Rental and Sales. Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

(4) Vehicle Storage (Short-Term). Storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of operating or non-operating vehicles beyond 21 days constitutes an industrial use type.

(5) Vehicle Storage (Long-Term). Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

2. Words beginning with "B."

A. "B.U.G" means a luminaire classification system that classifies backlight (B), uplight (U), and glare (G).

B. "Backlight" means, for an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.

C. "Bar" means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

D. "Base Zoning District" means a district established by this Zoning Code which prescribes basic regulations governing land use and site development standards. For any actions taken after the effective date of this Code, no more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.

E. "Basement" means a level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement. Chapter 185 sets forth floodplain and floodway regulations governing building standards in flood-prone areas.

F. "Bed and breakfast" means a lodging service that provides overnight or short-term accommodations to guests or visitors, usually including the provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner of the structure, include no more than 10 units, and accommodate each guest or visitor for no more than seven consecutive days during any one-month period.

G. "Berm" means a mound of earth or fill material designed to blend into a landscape either to block out unwanted views or uses, to decrease noise, or to improve the design of a property.

H. "Block" means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of the legal description of a property.

I. "Blockface" means the property abutting one side of a street and lying between the two nearest intersection streets or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of the City.

J. "Board of Adjustment" means a body established by the *Code of Iowa* for the purpose of issuing Conditional Use Permits, interpreting and granting variances, and hearing appeals as provided by this Zoning Code.

K. "Broadcasting tower" means a structure for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district.

L. "Buffer" means a combination of horizontal space (land) and vertical elements (plants, berm, fences, and walls), used to physically separate or visually screen incompatible adjacent land uses.

M. "Buffer yard" means a landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

N. "Building" means a structure entirely separated from any other structure by space or by walls and having a roof and being built to provide shelter, support, or enclosure for persons or property.

O. "Building coverage" means the area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

P. "Building envelope" means the three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

Q. "Building line" means the outer boundary of a building established by the location of its exterior walls.

R. "Building marker" means an historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.

S. "Building Official" means the designee of the Council, responsible for the enforcement of Chapter 155.

T. "Building" means a structure entirely separated from any other structure by space or by walls and having a roof and being built to provide shelter, support, or enclosure for persons or property.

U. "Business" means activities that include the exchange or manufacture of goods or services on a site.

3. Words beginning with "C."

A. "Caliper" means the diameter of a tree trunk. Usually used for trees less than 12 inches in diameter.

B. "Campground" means facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than seven consecutive days during any one-month period.

C. "Canopy" means a projecting non-movable structure cantilevered or suspended from a building, supported by the main structural members to which it is attached, and used only as a roof or fixed shelter. A canopy may include a printed message or graphic, or not, and is treated no differently as a result under this chapter.

D. "Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematoria, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

E. "Certificate of Occupancy" means an official certificate issued by the Building Official, upon finding of conformance with the City's Building Code (Chapter 155), and upon receipt of a Certificate of Zoning Compliance.

F. "Certificate of Zoning Compliance" means an official certificate issued by the Building Official, which indicates that the proposed use of a building or land complies with the provisions of this Zoning Code.

G. "Change of use" means the replacement of an existing use by a new use.

H. "Civic organizations" means uses providing meeting, recreational, or social facilities for a private, nonprofit, or non-commercial association, primarily for use by members and guests.

I. "Clearance" means the distance from the bottom of a sign face elevated above grade and the grade below.

J. "Commercial breeders" means a person, engaged in the business of breeding dogs, cats, or other small animals who sells, exchanges, or leases animals in return for consideration or who offers to do so, whether or not the

animals are raised, trained, groomed, or boarded by the person. Typical uses are large-scale animal breeding operations.

K. "Commercial recreation" means private businesses or other organizations, which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Typical uses include driving ranges, theaters, private dance halls, or private skating facilities. Commercial recreation is divided into the following categories:

(1) Commercial Recreation (Limited). Facilities which include a structure of 10,000 square feet or less or a site covering an area of no more than one-half acre.

(2) Commercial Recreation (General). Facilities which include a structure of more than 10,000 square feet or a site covering an area of more than one-half acre.

L. "Common area" means an area held, designed, and designated for common or cooperative use within a development.

M. "Common development" means a development proposed and planned as one unified project not separated by a public street or alley.

N. "Communications services" means establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, but not including those classified as utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast towers and their minor ancillary ground structures are classified as miscellaneous use types.

O. "Compatibility" means the degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

P. "Comprehensive Plan" means the duly adopted Comprehensive Development Plan of the City to address future growth and development.

Q. "Conditional Use Permit (CUP)" means a permit that is intended to accommodate those types of uses that don't fit neatly into any particular zoning district, and which have the potential to impact surrounding properties. As part of the approval process, the Board of Adjustment can impose conditions on the proposed use to help minimize the potential impacts on surrounding properties.

R. "Conservation subdivision" means, wholly or in the majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided:

(1) There is no increase in the overall density permitted for a conventional subdivision in a given zoning district; and

(2) The remaining land area is used for common space.

S. "Construction yards" means establishments, housing facilities, or businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

T. "Consumer services" means establishments which provide services primarily to individuals and households, excluding automotive use types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

U. "Convenience storage" means storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding the use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini warehousing.

V. "Court" means an approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:

(1) Serves 12 or fewer housing units or platted lots.

(2) Does not function as a local street because of its alignment, design, or location.

(3) Is completely internal to a development.

(4) Does not exceed 600 feet in length.

W. "Crop production" means the raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

X. "Cultural services" means a library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

Y. "Curb" means a stone, concrete, or other improved boundary marking the edge of a road or other paved area.

Z. "Curb line" means a line, whether curbing exists or not, which is the edge of the pavement or shoulder.

AA. "Custom manufacturing" means establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures. This category also includes the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops. This involves:

(1) The use of hand tools; or

(2) The use of domestic mechanical equipment not exceeding two horsepower; or

(3) A single kiln not exceeding eight KW or equivalent.

4. Words beginning with "D."

A. "Daycare services" means care for children in the absence of parents or adults requiring supervision for a portion of the day, but less than 24 hours.

(1) Daycare Services (Limited). This use type includes all classifications of daycare facilities regulated by the State that operate providing care for not more than six children. This term includes nursery schools, preschools, daycare centers for children or adults, and

similar uses, but excludes public and private primary and secondary educational facilities.

(2) Daycare Services (General). This use type includes all classifications of daycare facilities regulated by the State that operate providing care for more than six children. This term includes nursery schools, preschools, daycare centers for children or adults, and similar uses, but excludes public and private primary and secondary educational facilities.

B. "Deck" means an unroofed platform, unenclosed, except by a railing, which is attached to the ground or another structure.

C. "Density" means the amount of development per specific unit of a site.

D. "Detached" means fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.

E. "Detention facilities" means a publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

F. "Drive-in services" means uses which involve the sale of products or provision of services to occupants in vehicles.

G. "Drive-thru" means an establishment that provides or dispenses products or services, through an attendant or an automated machine, to persons remaining in their vehicle that are in designated drive-thru stacking lanes. A drive-thru facility may be in combination with other uses, such as financial institutions, restaurants, pharmacies, and service providers, such as dry cleaners.

H. "Driveway" means a permanent surface area providing vehicular access between a street and an off-street parking or loading area. A driveway surface area shall be asphaltic, Portland cement binder pavement, paver block, concrete block, or similar surface so as to provide a durable and dustless surface. Gravel or rock is not deemed to be a dustless surface.

I. "Dwelling unit" means one or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

5. Words beginning with "E."

A. "Easement" means a privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.

B. "Elder group home" means a facility as defined in Section 231B of the *Code of Iowa*.

C. "Emergency conditions" means lighting that is only energized during an emergency power source; or the path of egress solely during a fire or other emergency situation; or lighting for security purposes used solely during an alarm; or lighting fed from a backup lighting for illuminating.

D. "Enclosed" means a roofed or covered space fully surrounded by walls.

E. "Extended stay hotel" or Motel" see "Lodging."

6. Words beginning with "F."

A. "Façade" means the exterior face of a building which is the architectural front, sometimes distinguished from the other faces by elaboration of architectural or ornamental details.

B. "Family" means one or more persons occupying a single dwelling unit, related by blood, marriage, domestic partnership, adoption, or other custodial arrangement.

C. "Family home" means a facility as defined in Section 414.22 of the *Code of Iowa*, including, but not limited to, elder family homes and elder group homes.

D. "Federal" means pertaining to the Government of the United States of America.

E. "Fence" means a structure made of wood, metal, masonry, or other material, typically used to screen, enclose, or divide open space for a setback or along a design site line.

F. "Financial services" means the provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (automatic teller machine) which is not accompanied on-site by an office of its primary financial institution is considered a general retail service use type.

G. "Firework sales" means establishments selling consumer first class fireworks and consumer second class fireworks. A Firework Seller License issued by the State Fire Marshal is required. Firework establishments must comply with all standards of the *National Fire Protection Act* 1124 and Section 100.19 of the *Code of Iowa*.

H. "Food sales" means establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

(1) Food Sales (Convenience). Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.

(2) Food Sales (General). Establishments selling a wide variety of food commodities, using facilities larger than 10,000 square feet. Typical uses include supermarkets.

(3) Food Sales (Limited). Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, and small grocery stores.

I. "Footcandle" means the unit of measure expressing the quantity of light received on a surface. One footcandle is the illuminance produced by a candle on a surface one-foot square from a distance of one foot.

J. "Frontage" means the length of a property line of any one premise abutting and parallel to a public street, private way, or court.

K. "Fully shielded luminaire" means a luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.

L. "Funeral services" means establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

7. Words beginning with "G."

A. "Gaming facilities" means establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City or the State.

B. "General industry" means enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, storage, treatment, or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

C. "General offices" means the use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices. The use may contain more than one commercial business or a group of nonresidential buildings within a common development.

D. "General retail services" means the sale or rental with incidental service of commonly used goods and merchandise for personal or household use, but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photographic services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; retail sales of pets; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

(1) General retail services (small scale) include facilities with no more than 10,000 square feet in a single establishment or 30,000 square feet within a multiple-tenant common development.

(2) General retail services (large scale) include facilities of 10,000 or more square feet in a single establishment or 30,000 square feet within a multiple-tenant common development.

E. "Glare" means lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

F. "Grade" means the horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

(1) For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk (or the boundary line between the property and the street right-of-way in the absence of sidewalks) perpendicular to the center of the wall facing the street.

(2) For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.

(3) For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

G. "Gross floor area" means the total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

H. "Groundcover" means vegetation that helps in stabilizing the soil such as vines, turf, low growing shrubs, and perennials.

I. "Group care facility" means a government-licensed or approved facility which provides for resident care and short or long-term, continuous multi-day occupancy of more than eight, but no more than 30, unrelated persons, not including resident staff. Group care facilities include facilities which provide services in accordance with individual needs for the:

(1) Adaptation to living with, or rehabilitation from, the handicaps of physical disability.

(2) Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorders or developmental disabilities.

(3) Rehabilitation from the effects of drug or alcohol abuse.

(4) Supervision while under a program alternative to imprisonment, including, but not limited to, pre-release, work-release, and probationary programs.

(5) Others who require direct adult supervision.

J. "Group home" means a facility licensed by the State in which at least three, but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption, reside while receiving therapy, training, living assistance, or counseling for the purpose of adaptation to living with or rehabilitation from a physical or mental disability

as defined by the relevant provisions of the *Code of Iowa*, or by the *Fair Housing Amendments Act of 1988*.

K. "Group residential" means the use of a site for a residence by four or more unrelated persons or distinct individuals, not defined as a family, on a weekly or longer basis.

L. "Guidance services" means a use providing counseling, direction, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

8. Words beginning with "H."

A. "Hardscape" means permanent hardscape improvements to the site including parking lots, drives, entrances, curbs, ramps, stairs, steps, medians, walkways, and non-vegetated landscaping that is 10 feet or less in width. Materials may include concrete, asphalt, stone, gravel, etc.

B. "Hardscape area" means the area measured in square feet of all hardscape. It is used to calculate the total site lumen limit in both the Prescriptive Method and Performance Methods. See "Hardscape."

C. "Health care" means a facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors.

(1) Health care (small-scale) includes facilities with no more than 10,000 square feet in a single establishment or 30,000 square feet within a multiple-tenant common development.

(2) Health care (large-scale) includes facilities of 10,000 or more square feet in a single establishment or 30,000 square feet within a multiple-tenant common development.

D. "Heavy industry" means enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

E. "Height" means the vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, gable, hip, shed, or gambrel roof. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.

F. "Home based business" or "home occupation" means an accessory occupational use conducted entirely within a dwelling unit by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site or have any external evidence of such use.

G. "Horticulture" means the growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

H. "Hotel." See "Lodging."

I. "Housing unit" or "Dwelling unit" means a building, or portion of a building, arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking.

9. Words beginning with "I."

A. "Illumination" means lighting sources installed for the primary purpose of lighting a specific sign or group of signs.

B. "Impervious coverage" means the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

C. "Industry standard lighting software" means lighting software that calculates point-by-point illuminance that includes reflected light using either raytracing or radiosity methods.

D. "In-patient services" means uses providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental illness, or communicable disease. Typical uses include nursing homes.

10. Words beginning with "J."

11. Words beginning with "K."

12. Words beginning with "L."

A. "Lamp" means a generic term for a source of optical radiation (i.e. "light"), often called a "bulb" or "tube." Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.

B. "Landfill" means the use of a site as a depository for solid wastes, including:

(1) Landfill (non-putrescible solid waste disposal) is the use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials, and ceramic tile.

(2) Landfill (putrescible and non-putrescible solid waste disposal) is the use of a site as a depository for any solid waste, except hazardous and toxic waste as defined by the Federal Environmental Protection Agency or the State. Typical disposal material would include non-

putrescible wastes and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage), and manure.

C. "Landscape islands" means a raised unpaved area located within or protruding into a parking lot or the center, unpaved area of a cul-de-sac or traffic circle. The area of a landscape island is measured from the back of the curb to the back of curb.

D. "Landscape lighting" means lighting of trees, shrubs, or other plant material as well as ponds and other landscape features.

E. "Landscape pod" means a small individual unpaved area within a parking lot incorporated to provide locations for vegetation, thus increasing the aesthetic quality of the parking lot.

F. "Landscaped area" means the area within the boundaries of a given lot, site, or common development consisting primarily of plant material, including, but not limited to, grass, trees, shrubs, vines, groundcover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

G. "Laundry services" means establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as personal services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

H. "LED" means light emitting diode.

I. "Light industry" means establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops, and publishing houses.

J. "Light trespass" means light that falls beyond the property it is intended to illuminate.

K. "Lighting" means "electric," "man-made," or "artificial" lighting. See "Lighting equipment."

L. "Lighting equipment" means equipment specifically intended to provide gas or electric illumination, including, but not limited to, lamps, luminaires, ballasts, poles, posts, lenses, and related structures, electrical wiring, and other necessary or auxiliary components.

M. "Lighting zone" means a lighting category establishing legal limits for lighting for particular parcels, areas, or districts in a community.

N. "Liquor sales" means establishments or places of business engaged in retail sale for off-premises consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer, or wine for off-site consumption.

O. "Loading area" means an off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

P. "Lodging" means lodging services involving the provision of room or board but not meeting the classification criteria of bed and breakfasts. Typical uses include the following definitions:

(1) "Extended stay hotel" or "motel" means any structure consisting of one or more buildings, with more than five specific dwelling units with provisions for living, eating, contain kitchen facilities for food preparation including, but not limited to, refrigerators, stoves and ovens, sanitation, separate bathroom and kitchen sink, and sleeping in each unit, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for pay to persons, for a minimum stay of more than 30 days and a maximum stay of 10 months within the dwelling units at the structure, that is approved pursuant to a valid Certificate of Occupancy issued by the Building Official having jurisdiction as having all of the required dwelling unit features, and for which such valid Certificate of Occupancy indicates the specific rooms within the structure that can be used as dwelling units, and that is approved by the Fire Marshal for extended stay temporary residence purposes. Each room shall be a minimum of 275 square feet in area, exclusive of bathroom, closet, or balcony space. Weekly services for each dwelling unit of linen change, towel change, soap change, general cleanup, and a registration lobby staffed on a 12-hour daily basis and 24-hour daily registration, and emergency phone number are provided by the management. Each extended stay dwelling unit and facilities are subject to the City's rental inspection outlined in Chapter 156. For the purposes of parking requirements, extended stay hotels or motels will have to meet the multi-family residential parking requirements.

(2) "Hotel" means one or more buildings containing 20 or more guest rooms, with such rooms being designed or intended to be used, or which are used as temporary or overnight accommodations for guests in which daily services of linen change, central telephone switchboard, towel change, soap change, general cleanup, and a registration lobby staffed on a 24-hour daily basis are provided by the management. Each room shall be a minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 days per year. Access to all rooms shall be provided through one or more common entrances. Accessory uses are encouraged and permitted accessory uses include restaurants, cocktail lounges, banquet halls, ballrooms, or meeting rooms.

(3) "Motel" means a building or group of buildings containing dwelling units, intended to be used or which are used as temporary or overnight accommodations for guests, in which daily services of linen change, central telephone switchboard, towel change, soap change, general cleanup, and a registration lobby staffed on a 12-hour daily basis and 24-hour daily registration, and emergency phone number are

provided by the management. Each room shall be a minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 days per year. Each living or sleeping unit shall have an individual entrance from outside the building. Living or sleeping units may be equipped with cooking facilities. Parking close to the entrance of each living or sleeping unit should be made available.

Q. "Lot" means a parcel of property with a separate and distinct number or other identifying designation which has been created, assigned, and recorded in the County Recorder. Each individual lot is subject to the provisions of a particular Base Zoning District and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development or Conservation Subdivision.

R. "Lot area" means the total horizontal area within the lot lines of a lot.

(1) "Lot, common development" means a lot which is considered a single lot for the purposes of this Zoning Code, when two or more contiguous lots are developed as part of a Planned Unit Development.

(2) "Lot, corner" means a lot located at the junction of at least two streets, private ways or courts, or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

(3) "Lot, double frontage" (also known as a "through lot") means a lot, other than a corner lot, having frontage on two streets, private ways, or courts Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at the time of platting or as defined by this Zoning Code.

(4) "Lot, interior" means a lot other than a corner lot.

S. "Lot line" means a property boundary line of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.

(1) "Lot line, front" means the lot line separating a lot and a public or private street right-of-way or easement:

a. In the case of an interior lot, the front lot line is the line separating the lot from the right-of-way or easement;

b. In the case of a corner lot, the front lot line is the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat.

c. In the case of a double frontage lot, the front lot line is the line separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time of application for the original Building Permit for the lot, or as may be noted on the final plat.

(2) "Lot line, rear" means the lot line which is opposite and most distant from the front line.

(3) "Lot line, side" means any lot line that is neither a front nor rear lot line. A side lot line separating a lot from a street, private way, or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

T. "Lot width" means the horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

U. "Low voltage landscape lighting" means landscape lighting powered at less than 15 volts and limited to luminaires having a rated initial luminaire lumen output of 525 lumens or less.

V. "Lumen" means the unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from "watt," a measure of power consumption).

W. "Luminaire" means the complete lighting unit (fixture), consisting of a lamp, or lamps and ballasts (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

X. "Luminaire lumens" means luminaires with relative photometry per IES, it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70 percent. For luminaires with absolute photometry per IES LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.

Y. "Lux" means the SI unit of illuminance. One lux is one lumen per square meter. One lux is a unit of incident illuminance approximately equal to 1/10 footcandle.

13. Words beginning with "M."

A. "Main entrance" means that entrance of the building which is most architecturally prominent and contains operable doors. If multiple entrances are equal, the entrance that faces the most used street.

B. "Maintenance facilities" means a public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

C. "Manufactured home dwelling" means a factory-built, single-family dwelling structure which is to be used as a place for human habitation, which is manufactured or constructed under the authority of 42 U.S. 3. Sec. 5403, *Federal Manufactured Home Construction and Safety Standards*, and which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home constructed to the *National Manufactured Home Construction and Safety*

Standards promulgated by the US Department of Housing and Urban Development is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling as is provided in Section 435 of the *Code of Iowa*. For the purpose of any of these regulations, a manufactured home shall be considered the same as a single-family detached dwelling.

D. "Medical offices" means the use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which do not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State.

E. "Mixed-use" means a single building containing two or more types of land uses; or a single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

F. "Mixed-use development" means a single development which incorporates complementary land use types into a single development.

G. "Mobile home" means a building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Iowa Department of Health or conformance to the Manufactured Home Procedural and Enforcement Regulations, as adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of "manufactured home dwelling."

H. "Mobile home park" means a unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile home parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.

I. "Motel." See "Lodging."

J. "Mounting height" means the height of the photometric center of a luminaire above grade level.

14. Words beginning with "N."

A. "Nonconforming development" means a building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Code, but which complied with applicable regulations at the time of construction. No action can be taken which would increase the nonconforming characteristics of the development.

B. "Nonconforming lot" means a lot which was lawful prior to the adoption, revision, or amendment of this Zoning Code, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the lot.

C. "Nonconforming structure" means a structure which was lawful prior to the adoption, revision, or amendment of this Zoning Code, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the structure.

D. "Nonconforming use" means a land use which was lawful prior to the adoption, revision, or amendment of this Zoning Code, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the land use.

E. "Nuisance" means an unreasonable and continuous invasion of the use and enjoyment of a property right which a person would find annoying, unpleasant, obnoxious, or offensive.

15. Words beginning with "O."

A. "Object" means a permanent structure located on a site. Objects may include statues or artwork, garages or canopies, outbuildings, etc.

B. "Object height" means the highest point of an entity but shall not include antennas or similar structures.

C. "Open space" means any area within a single site or lot that is not covered by a building, structure, parking lot, or driveway. Sidewalks and patios may be counted as open space. Open space is an area which serves the need for leisure, recreation, or pedestrian interaction. Spaces may include, but are not limited to, plaza areas, open lawn areas, trails, recreation facilities, gardens, and pedestrian walkways.

D. "Outdoor lighting" means lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.

E. "Outdoor storage" means the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

F. "Overlay District" means a district established by this Zoning Code to prescribe special regulations to be applied to a site only in combination with a Base Zoning District.

G. "Owner" means an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek the development of land.

16. Words beginning with "P."

A. "Parapet" means a low, solid, protective screening or decorative wall, often used around a balcony, or along the edge of a roof to screen roof equipment.

B. "Parking facility" means an area on a lot or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Code. Parking facilities include parking lots, private garages, and parking structures.

Vehicle storage is distinct from parking and is regulated by provisions of Chapter 174.

C. "Parking space" means an area on a lot or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with "parking stall." Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.

D. "Parking structure" means the use of a site for a multi-level building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

E. "Paved" means permanently surfaced with poured concrete, concrete pavers, masonry units, brick, or asphalt.

F. "Pawnbroker" means a person or individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity who for a fee:

(1) Accepts a check, draft, share draft, or other instrument for the payment of money dated subsequent to the date it was written.

(2) Accepts a check, draft, share draft, or other instrument for the payment of money dated on the date it was written and holds it for a period of time prior to deposit or presentment pursuant to an agreement with, or any representation made to, the maker of the check, draft, or other instrument whether express or implied.

G. "Pawn shop" means the location at which or premises upon which a pawnbroker regularly conducts business. Pawnbroker is defined in Chapter 124.

H. "Permitted use" means a land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Code.

I. "Personal services" means establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry-cleaning stations serving individuals and households, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft, and hobby instruction.

J. "Pet services" means pet health services and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

K. "Photoelectric switch" means a control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.

L. "Planned Unit Development" means a development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The

development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

M. "Planning Commission" means the Planning and Zoning Commission of the City, as authorized pursuant to Chapter 414 of the *Code of Iowa*.

N. "Plaza" means a public square or an open space.

O. "Porch, unenclosed" means a roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than 30 inches above its floor other than wire screening and a roof with supporting structure.

P. "Postal facilities" means postal services, including post offices, bulk mail processing, or sorting centers operated by the United States Postal Service.

Q. "Premises" means a lot, parcel, tract, or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.

R. "Primary building frontage" means the building frontage that is most accessed by patrons or users of the building.

S. "Primary street frontage" means the building frontage that corresponds to the main street that provides access to the primary building frontage for the structure or building. In the case of corner lots, both of the streets the building fronts are considered to be primary street frontages.

T. "Private garage" means a building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.

U. "Property line." See "Lot line."

V. "Public assembly" means facilities owned and operated by a public agency or a charitable nonprofit organization accommodating the public for recreation, sports, amusement, religious worship, religious education, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

17. Words beginning with "Q."

18. Words beginning with "R."

A. "Recreational vehicle" means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, snowmobiles, boats, and boat trailers.

B. "Recycling collection" means any site which is used, in whole or part, for the receiving or collection of any post-consumer, non-durable goods including, but not limited to, glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

C. "Recycling processing" means any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to, glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

D. "Regulation" means a specific requirement set forth by this Zoning Code which must be followed.

E. "Relative photometry" means photometric measurements made of the lamp plus luminaire, adjusted to allow for light loss due to reflection or absorption within the luminaire. Reference standard: IES LM-63.

F. "Research services" means establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

G. "Residential" means the use of a site for one or more dwelling units.

(1) "Residential, accessory dwelling unit" means an additional, non-principal residential dwelling unit located on the same lot as a single-family residence that is either attached or detached from the single-family residence.

(2) "Residential, downtown" means the use of upper levels above the street level of a building within the Urban Center District of the City for single- or multiple-family residential uses.

(3) "Residential, duplex" means a residential use with two dwelling units contained within the same structure. Units do not have to contain a common wall and may be above or below each other.

(4) "Residential, multi-family" means a residential use with more than three units on a single lot in which all units do not contain at least one common wall with another unit. Units do not have to contain a common wall and may be above or below each other. Also known as residential, multiple-family.

(5) "Residential, single-family detached" means a single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.

(6) "Residential, townhomes" means a townhome residential use with six or more units, in which the dwelling units have a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.

H. "Resource extraction" means a use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, and mining.

I. "Restaurant, drive-in or fast-food" means an establishment whose principal business is cooking and preparation of food to sell for consumption within a motor vehicle parked on the premises or within the restaurant building, or any combination thereof, and whose principal method of operation includes the following characteristics as contrasted to a standard restaurant; designed to attract and depend upon a large volume of customers; limited, relatively low-cost menu items; quick-order service at a window or counter, from where the customer generally carries the food to another counter or table for consumption;

and most food is served in or on paper, plastic or other disposable containers; and any other restaurant not defined as a standard restaurant.

J. "Restaurant, general" means an establishment whose principal business is cooking and preparation of food to sell for consumption within the restaurant building and whose principal method of operation is characterized by customers being seated by a restaurant employee and provided with an individual menu, and who are served by a restaurant employee at the same table or counter at which food and beverages are consumed; also including cafeteria line service offering a wide selection of main courses and other menu items, including restaurants with limited drive-thru service to customers in a motor vehicle. Delicatessens, establishments whose principal business is the sale of pizza or of ice cream, yogurt, coffee, or milk products are specifically included in the definition.

K. "Retirement residence" means a building, or group of buildings, which provide residential facilities for four or more residents of at least 50 years of age, or households headed by a householder of at least 50 years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including, but not limited to, food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences with more than 50 living units may include additional health care supervision or nursing care, provided that the number of beds for such residences shall not exceed 25 percent of the total number of individual living units. Typical uses include continuing care retirement centers.

L. "Right-of-way" means an area dedicated for public use or contained in an easement or other conveyance or grant to the City, including, but not limited to, streets, alleys, boulevards, sidewalks, public greenways, and other public property between the lateral property lines in which a roadway lies.

19. Words beginning with "S."

A. "Safety services" means facilities for the conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

B. "Salvage services" means places of business primarily engaged in the storage, sale, dismantling, or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.

C. "Screening" means the method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape provisions of this Code.

D. "Secondary educational facilities" means a public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State.

E. "Setback" means the distance, as required by the minimum setback, which establishes the horizontal component of the building envelope.

F. "Short Term Vacation Rental" (STVR) means a lodging service that provides overnight or short-term accommodations to guests and visitors. For the purpose of this definition, STVRs are always owned and operated by the resident owner of the structure and accommodate each guest or visitor for no more than 14 consecutive days during any one-month period. For the purpose of this definition, the lodging service must be approved by a national accommodation service such as Airbnb, VRBO, or other similar services. To be used as an STVR, property owners shall reside at the residence a minimum of 180 calendar days per year.

G. "Shrub" means a small woody plant generally less than 12 feet in height that is either deciduous or evergreen.

H. "Sign" is any device, display, or structure that is visible from a public place and that has words, letters, figures, designs, symbols, logos, illumination, or projected images. This definition does not include architectural elements incorporated into the structure or façade of a building. For the purposes of this *Sign Code*, "signs" do not include those only visible from the inside of a building or athletic field or stadium; nor do "signs" include those held by or attached to a person. Sign regulations are set forth in Chapter 175.

(1) "Sign, abandoned" means a sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six months.

(2) "Sign, attached" means a sign which is structurally connected to a building or depends upon that building for support.

(3) "Sign, auxiliary design elements" means terms which describe secondary characteristics of a sign, including its method of illumination and other features within the bounds of its basic shape.

(4) "Sign, awning" means a temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework. An awning sign is a message printed on such a shelter.

(5) "Sign, banner" means material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement under which pedestrian or vehicle traffic passes, but does not include signs or materials under which peoples or traffic do not pass, such as that tied or secured within or to a window or porch opening, or tied or secured flush against a building.

(6) "Sign, billboard" means a freestanding sign that is at least 14 feet by 30 feet.

(7) "Sign, detached" means a sign which is self-supporting and structurally independent from any building.

(8) "Sign, directional" means a sign which serves only to designate the location or direction of any area or place.

(9) "Sign, double-faced" means a sign consisting of no more than two parallel faces supported by a single structure.

(10) "Sign, electronic changeable copy" means a sign, or portion thereof with characters, letters, or illustrations that can be changed or rearranged manually without altering the face or surface of the sign.

(11) "Sign, ground" means a detached on-premises sign built on a freestanding frame, mast, or pole with a clearance no greater than three feet.

(12) "Sign, marquee" means a permanent roofed structure attached to and supported by a building and extending over the public right-of-way.

(13) "Sign, maximum permitted area" means the maximum permitted combined area of all signs allowed on a specific property.

(14) "Sign, monument" means an on-premises freestanding sign with the appearance of a solid base. The base shall be at least 75 percent of the sign.

(15) "Sign, moving" means a sign which conveys its message through rotating, changing, or animated elements.

(16) "Sign, nonconforming" means a sign that was legally erected prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment, to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the sign.

(17) "Sign, pole" means an on-premises sign, including any flag, built on a freestanding frame, mast, or pole with a clearance greater than three feet, and where the support encompasses less than 75 percent of the width of the sign.

(18) "Sign, portable" means any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.

(19) "Sign, roof" means any sign or part of a sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.

a. "Integral roof sign" means a roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.

b. "Above-peak roof sign" means a roof sign positioned above the peak of a roof or above a parapet or cornice.

(20) "Sign, sidewalk" means a portable sign that is placed on the sidewalk close to an establishment. These are traditionally in the shape of an "A" or an inverted "T."

(21) "Sign, temporary" means a sign constructed of cloth, canvas, vinyl, paper, plywood, fabric, plastic, or other lightweight material that

is neither permanently installed in the ground nor permanently affixed to a building or structure that is permanently installed in the ground, and which is displayed less than 60 days. The term "temporary sign" includes, but is not limited to, A-frame signs, lawn signs, banners, and inflatable signs. The term "temporary sign" does not include flags and signs that are intended to regularly move, such as a moving sign.

(22) "Sign, wall" means a sign attached to and parallel with the side of a building, including works of graphic art painted or applied to building walls.

(23) "Sign, window" means a sign painted on or installed inside a window for the purpose of viewing from outside the premises. Window signs do not include messages, signs, or speech hung from or exercised in the interior of the home which are visible from the exterior of the home. Residents may elect for window signs to count towards residential signs or temporary signs.

I. "Sign area" means the area of the surface of the sign to be measured.

(1) "Signs on a background" require the entire area of the framework or background of the sign.

(2) "Sign with a base" require the background, not including the base.

(3) "Individually mounted letters or features" requires a rectangle that would encompass each word or feature.

(4) "Signs with two faces" requires the larger of two faces to be measured.

(5) "3-D signs" requires 50 percent of a rectangular prism that encompasses the object.

J. "Site" means the parcel of land to be developed or built upon. A site may encompass a single lot or a group of lots developed as a common development under the special and overlay districts provisions of this Zoning Code.

K. "Site plan" means a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land, and which includes any other information that may reasonably be requested by the City in order that an informed decision can be made on the associated request.

L. "Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kilowatts (kW), and which is intended to primarily reduce on-site consumption of utility-supplied electricity.

M. "Story" means the portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the next ceiling above it. A half

story is a story under a sloped roof, the wall heights of which on at least two opposite exterior walls are less than four feet.

N. "Street" means a right-of-way dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Iowa statutes.

(1) In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented; and

(2) The intersecting street shall be a street other than a principal street.

O. "Street façade" means any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public street, private way, or court. Separate faces oriented in the same direction or within 45 degrees of one another are considered part of the same street façade.

P. "Street, local" means a street which is used primarily for access to the abutting properties.

Q. "Street, major" means a street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Plan.

R. "Streetscape" means a combination of vegetation, amenities such as bike racks, and special visual features along either side of vehicular travel lanes for the purpose of aesthetics or shade.

S. "Structure" means any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground.

T. "Surplus sales" means businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor displays.

20. Words beginning with "T."

A. "Temporary structure" means any shed, structure, building, trailer, tent, or enclosure of any kind used for storage, commercial, business, or residential purposes which any person or business intends to place on the same lot with or on any lot immediately adjacent to, any permanent structure used for business or commercial or residential purposes. This term includes "temporary portable storage container," which is defined as a large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods and that does not contain a foundation or wheels for movement. All other words or phrases shall have the same meaning assigned to them in Chapter 166.

B. "Temporary use" means a conduct of an activity or the performance of a function or operation on a site or in a building or facility that is not intended to be permanent.

(1) "Temporary use (short-term)" means a short-term use with a maximum duration of four consecutive days or less.

(2) "Temporary use (long-term)" means a long-term use in duration of more than four consecutive days but less than six months.

C. "Time switch" means an automatic lighting control device that switches lights according to the time of day.

D. "Total extended height" means the height above grade to a blade tip at its highest point.

E. "Tower height" means the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

F. "Trade services" means establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

G. "Translucent" means allowing light to pass through, diffusing it so that objects beyond cannot be seen clearly (not transparent or clear).

H. "Transportation terminal" means a facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, and public transit facilities.

I. "Truck terminal" means a facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

21. Words beginning with "U."

A. "Unshielded luminaire" means a luminaire capable of emitting light in any direction including downwards.

B. "Uplight" means for an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.

C. "Use" means the conduct of an activity or the performance of a function or operation on a site or in a building or facility.

D. "Utilities" means any above-ground structure or facilities other than lines, poles, and other incidental facilities or installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatment, or storage of water, solid or fluid wastes, stormwater, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.

22. Words beginning with "V."

A. "Vertical illuminance" means illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

B. "Veterinary services" means veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

C. "Vision-clearance triangle" means a triangle with legs of 15 feet from the point at which the curbs or edges of two intersecting streets, private ways,

or courts or an intersecting street, private way, or court and driveway, meet at grade.

23. Words beginning with "W."

A. "Warehousing" means uses including open-air storage, distribution, and handling of goods and materials, but not including storage of hazardous materials. Typical uses include monument yards or open storage.

24. Words beginning with "X."

25. Words beginning with "Y."

A. "Yard, required" means that portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this Zoning Code.

(1) "Front yard" means the space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:

a. The yard along the blockface to which a greater number of structures are oriented; or

b. The yard along a street that has the smaller horizontal dimension.

(2) "Interior side yard" means the space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

(3) "Rear yard" means the space extending the full width of a lot, lying between the rear lot line and the rear setback line.

(4) "Street side yard" means, on a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.

26. Words beginning with "Z."

A. "Zoned lot" means a parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

B. "Zoning district" means a designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Code.

[The next page is 1551]

CHAPTER 167

ZONING CODE - USE TYPES

167.01 Purpose
167.02 Determinations
167.03 Agricultural Use Types
167.04 Residential Use Types
167.05 Civic Use Types
167.06 Office Use Types
167.07 Commercial Use Types
167.08 Parking Use Types
167.09 Industrial Use Types
167.10 Transportation Use Types
167.11 Miscellaneous Use Types

167.01 PURPOSE. The purpose of this chapter is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. This chapter also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

167.02 DETERMINATIONS.

1. Classification of Uses. In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

2. Records. The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

167.03 AGRICULTURAL USE TYPES. Agricultural use types include the on-site production and sale of plant and animal products by agricultural methods.

1. Horticulture. The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

2. Crop Production. The raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

3. Animal Production. The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational use. Typical uses include grazing, ranching, dairy farming, and poultry farming.

167.04 RESIDENTIAL USE TYPES. Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

1. Single-Family Residential. The use of a site for one dwelling unit, occupied by one family.[†]

A. "Detached single-family residential" means a single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.

B. "Attached single-family residential" means a single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot.

2. Duplex Residential. The use of a legally described lot for two dwelling units, each occupied by one family within a single building, excluding mobile home units, but including modular housing units.

3. Two-Family Residential. The use of a site for two dwelling units, each occupied by one family, each in a separate building, excluding a mobile home unit.

4. Townhouse Residential. The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

5. Multiple-Family Residential. The use of a site for three or more dwelling units within one building.

6. Downtown Residential. The use of upper levels above street level of a building within the Town Center District of the City for single- or multiple-family residential uses.

7. Group Residential. The use of a site for a residence by four or more unrelated persons, not defined as a family, on a weekly or longer basis.

8. Manufactured Home Residential. The use of a site for one or more manufactured home dwellings, as defined in Chapter 166.

9. Mobile Home Park. The use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a mobile home park is leased from the owner of the facility.

10. Retirement Residence. A building or group of buildings which provide residential facilities for four or more residents of at least 50 years of age, or households headed by a householder of at least 50 years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including, but not limited to, food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement

[†] **EDITOR'S NOTE:** Mobile home units are not a single-family use type. See following categories for such units.

residences with more than 50 living units may include additional health care supervision or nursing care, provided that the number of beds for such residences shall not exceed 25 percent of the total number of individual living units. Typical uses include continuing care retirement centers.

167.05 CIVIC USE TYPES. Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with social importance.

1. Administration. Governmental offices providing administrative, clerical, or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, State, County, and City offices.

2. Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematoria, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

3. Clubs. Uses providing meeting, recreational, or social facilities for a private, nonprofit, or non-commercial association, primarily for use by members and guests.

4. College and University Facilities. An educational institution of higher learning which offers courses of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.

5. Convalescent Services. Uses providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental illness, or communicable disease. Typical uses include nursing homes.

6. Cultural Services. A library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

7. Daycare Services (Limited). This use type includes all classifications of day care facilities regulated by the State that operate providing care for not more than six children. This term includes nursery schools, preschools, daycare centers for children or adults, and similar uses, but excludes public and private primary and secondary educational facilities.

8. Daycare Services (General). This use type includes all classifications of day care facilities regulated by the State that operate providing care for more than six children. This term includes nursery schools, preschools, daycare centers for children or adults, and similar uses, but excludes public and private primary and secondary educational facilities.

9. Detention Facilities. A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

10. Emergency Residential Services. A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings; such facilities being limited to no more than three victims at any one time.

11. Family Home. A facility as defined in Section 414.22 of the *Code of Iowa*, including, but not limited to, elder family homes and elder group homes.

A. Elder Family Home. A facility as defined in Section 231A of the *Code of Iowa*.

B. Elder Group Home. A facility as defined in Section 231B of the *Code of Iowa*.

12. Group Care Facility. A government-licensed or approved facility which provides for resident care and short or long-term, continuous multi-day occupancy of more than eight, but no more than 30, unrelated persons, not including resident staff. Group care facilities include facilities which provide services in accordance with individual needs for the:

A. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.

B. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder or developmental disabilities.

C. Rehabilitation from the effects of drug or alcohol abuse.

D. Supervision while under a program alternative to imprisonment, including, but not limited to, pre-release, work-release, and probationary programs.

E. Others who require direct adult supervision.

13. Group Home. A facility licensed by the State in which at least three, but no more than eight, persons (not including resident managers or house parents), who are unrelated by blood, marriage, or adoption, reside while receiving therapy, training, living assistance, or counseling for the purpose of adaptation to living with or rehabilitation from a physical or mental disability as defined by the relevant provisions of the *Code of Iowa* or by the *Fair Housing Amendments Act of 1988*.

14. Guidance Services. A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

15. Health Care. A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors.

16. Hospital. A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.

17. Maintenance Facilities. A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

18. Park and Recreation Services. Publicly owned and operated parks, playgrounds, recreation facilities, and open spaces.

19. Postal Facilities. Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

20. Primary Educational Facilities. A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State.

21. Public Assembly. Facilities owned and operated by a public agency or a charitable nonprofit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

22. Religious Assembly. A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, daycare facilities, and incidental parking facilities). A property tax exemption obtained pursuant to *Property Tax Code* of the State shall constitute prima facie evidence of religious assembly use.

23. Safety Services. Facilities for conduct of public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

24. Secondary Educational Facilities. A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State.

25. Utilities. Any above-ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development or use of land.

167.06 OFFICE USE TYPES. Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

1. General Offices. Use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.

2. Financial Services. Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on-site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (automatic teller machine) which is not accompanied on-site by an office of its primary financial institution is considered a general retail services use type.

3. Medical Offices. Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which do not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State.

4. Delayed Deposit Services Business. A person or individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity who for a fee accepts a check, draft, share draft, or other instrument for the payment of money dated subsequent to the date it was written or accepts a check, draft, share draft, or other instrument for the payment of money dated on the date it was written and holds it for a period of time prior to deposit or presentment pursuant to an agreement with, or any representation made to, the maker of the check, draft, or other instrument whether express or implied.

167.07 COMMERCIAL USE TYPES. Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

1. Agricultural Sales and Service. Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides, and similar goods or in the provision of agriculture-related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

2. Automotive and Equipment Services. Establishments or places of business primarily engaged in sale or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

A. Automotive Rental and Sales. Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

B. Auto Services. Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning or repair of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities, but exclude dismantling, salvage, or body and fender repair services.

C. Body Repair. Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

D. Equipment Rental and Sales. Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

E. Equipment Repair Services. Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services,

and machine shops, but exclude dismantling, salvage, or body and fender repair services.

1. Vehicle Storage. Storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of operating or non-operating vehicles beyond 21 days constitutes an industrial use type.

3. Bed and Breakfast. A lodging service that provides overnight or short-term accommodations to guests or visitors, usually includes provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner of the structure, include no more than 10 units, and accommodate each guest or visitor for no more than seven consecutive days during any one-month period.

4. Business Support Services. Establishments or places of business primarily engaged in the sale, rental, or repair of equipment, supplies, and materials or the provision of services used by office, professional, and service establishments to the firms themselves, but excluding automotive, construction, and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.

5. Business or Trade Schools. A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

6. Campground. Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than seven consecutive days during any one-month period.

7. Cocktail Lounge. A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

8. Commercial Recreation. Private businesses or other organizations, which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Typical uses include driving ranges, theaters, private dance halls, or private skating facilities. Commercial recreation is divided into the following categories:

A. Commercial Recreation (Limited). Facilities which include a structure of 10,000 square feet or less or a site covering an area of no more than one-half acre.

B. Commercial Recreation (General). Facilities which include a structure of more than 10,000 square feet or a site covering an area of more than one-half acre.

9. Communications Services. Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, but not including those classified as utilities.

Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast towers and their minor ancillary ground structures are classified as miscellaneous use types.

10. Construction Sales and Services. Establishments or places of business primarily engaged in wholesale or retail sales, from the premises, of materials used in the construction of buildings or other structures, other than retail sale of paint, fixtures, and hardware. This use type excludes those uses classified under automotive and equipment services. Typical uses include building materials sales or tool and equipment rental or sales.

11. Consumer Services. Establishments which provide services primarily to individuals and households but excluding automotive use types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

12. Convenience Storage. Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

13. Firework Sales. Establishments selling consumer first class fireworks and consumer second class fireworks. A firework seller license issued by the State Fire Marshal is required. Firework establishments must comply with all standards of the *National Fire Protection Act* 1124.

14. Food Sales. Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

A. Convenience Food Sales. Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.

B. Limited Food Sales. Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, and small grocery stores.

C. General Food Sales. Establishments selling a wide variety of food commodities, using facilities larger than 10,000 square feet. Typical uses include supermarkets.

15. Funeral Services. Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

16. Gaming Facilities. Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City or the State.

17. General Retail Services (Small and Large Scale). Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments

providing the following products or services: household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photographic services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; retail sales of pets; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

A. General retail services (small scale) include facilities with no more than 10,000 square feet in a single establishment or 30,000 square feet within a multiple-tenant common development.

B. General retail services (large scale) include facilities of 10,000 or more square feet in a single establishment or 30,000 square feet within a multiple-tenant common development.

18. Kennels. Boarding and care services for dogs, cats, and similar small mammals or large birds; or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich-raising facilities, pet motels, or dog-training centers.

19. Laundry Services. Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as personal services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.

20. Liquor Sales. Establishments or places of business engaged in retail sale for off-premises consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer, or wine for off-site consumption.

21. Lodging. Lodging services involving the provision of room or board but not meeting the classification criteria of bed and breakfasts. Typical uses include the following definitions:

A. "Extended stay hotel or motel" means any structure consisting of one or more buildings, with more than five specific dwelling units with provisions for living, eating, contain kitchen facilities for food preparation including, but not limited to, refrigerators, stoves and ovens, sanitation, separate bathroom and kitchen sink, and sleeping in each unit, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for pay to persons, for a minimum stay of more than 30 days and a maximum stay of 10 months within the dwelling units at the structure, that is approved pursuant to a valid Certificate of Occupancy issued by the Building Official having jurisdiction as having all of the required dwelling unit features, and for which such valid Certificate of Occupancy indicates the specific rooms within the structure that can be used as dwelling units, and that is approved by the Fire Marshal for extended stay temporary residence purposes. Each room shall be a minimum of 275 square feet in area, exclusive of bathroom, closet, or balcony space. Weekly services for each dwelling unit of linen change, towel change, soap change, general cleanup, and a registration lobby staffed on a 12-hour daily basis and 24-hour daily registration and emergency phone number are provided by the management.

Each extended stay dwelling unit and facilities are subject to the City's rental inspection outlined in Chapter 156. For the purposes of parking requirements, extended stay hotel or motels will have to meet the multi-family residential parking requirements.

B. "Hotel" means one or more buildings containing 20 or more guest rooms, with such rooms being designed or intended to be used, or which are used as temporary or overnight accommodations for guests in which daily services of linen change, central telephone switchboard, towel change, soap change, general cleanup, and a registration lobby staffed on a 24-hour daily basis are provided by the management. Each room shall be a minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 days per year. Access to all rooms shall be provided through one or more common entrances. Accessory uses are encouraged and permitted accessory uses include restaurants, cocktail lounges, banquet halls, ballrooms, or meeting rooms.

C. "Motel" means a building, or group of buildings, containing dwelling units, intended to be used or which are used as temporary or overnight accommodations for guests, in which daily services of linen change, central telephone switchboard, towel change, soap change, general cleanup, and a registration lobby staffed on a 12-hour daily basis and 24-hour daily registration and emergency phone number are provided by the management. Each room shall be a minimum of 250 square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding 30 days per year. Each living or sleeping unit shall have an individual entrance from outside the building. Living or sleeping units may be equipped with cooking facilities. Parking close to the entrance of each living or sleeping unit should be made available.

22. Pawn Shop. The location at which or premises upon which a pawnbroker regularly conducts business. Pawnbroker is defined in Chapter 124.

23. Personal Improvement Services. Establishments primarily engaged in the provision of informational, instructional, personal improvements, and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

24. Personal Services. Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry-cleaning stations serving individuals and households, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

25. Pet Services. Pet health services and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

26. Research Services. Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

27. Restaurant, Drive-In or Fast-Food. An establishment whose principal business is cooking and preparation of food to sell for consumption within a motor vehicle parked on the premises or within the restaurant building, or any combination thereof, and whose principal method of operation includes the following characteristics as contrasted to a standard restaurant; designed to attract and depend upon a large volume of customers; limited, relatively low-cost menu items; quick-order service at a window or counter, from where the customer generally carries the food to another counter or table for consumption; and most food is served in or on paper, plastic, or other disposable containers; and any other restaurant not defined as a standard restaurant.

28. Restaurant, General. An establishment whose principal business is cooking and preparation of food to sell for consumption within the restaurant building and whose principal method of operation is characterized by customers being seated by a restaurant employee and provided with an individual menu, and who are served by a restaurant employee at the same table or counter at which food and beverages are consumed; also including cafeteria line service offering a wide selection of main courses and other menu items, including restaurants with limited drive-thru service to customers in a motor vehicle. Delicatessens, establishments whose principal business is the sale of pizza or of ice cream, yogurt, coffee, or milk products are specifically included in the definition.

29. Restricted Businesses. Any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of the City, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters.

30. Short Term Vacation Rental (STVR). A lodging service that provides overnight or short-term accommodations to guests and visitors. For the purpose of this definition, STVRs are always owned and operated by the resident owner of the structure and accommodate each guest or visitor for no more than 14 consecutive days during any one-month period. For the purpose of this definition, the lodging service must be approved by a national accommodation service such as Airbnb, VRBO, or other similar service. To be used as an STVR, property owner shall reside at the residence a minimum of 180 calendar days per year.

31. Stables or Riding Academies. The buildings, pens, and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses or equine for hire.

32. Surplus Sales. Businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

33. Trade Services. Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

34. Vehicle Storage. Short-term storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an industrial use type.

35. Veterinary Services. Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

167.08 PARKING USE TYPES.

1. Off-Street Parking Lots and Facilities. Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

2. Parking Structure. The use of a site for a multi-level building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

167.09 INDUSTRIAL USE TYPES. Industrial use types include the on-site extraction or production of goods by non-agricultural methods and the storage and distribution of products.

1. Construction Yards. Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

2. Custom Manufacturing. Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

A. The use of hand tools; or

B. The use of domestic mechanical equipment not exceeding two horsepower; or

C. A single kiln not exceeding eight KW or equivalent.

D. This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

3. Light Industry. Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops, and publishing houses.

4. General Industry. Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, storage, treatment, or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

5. Heavy Industry. Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

6. Recycling Collection. Any site which is used, in whole or part, for the receiving or collection of any post-consumer, non-durable goods including, but not limited to, glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

7. Recycling Processing. Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to, glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

8. Resource Extraction. A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, and mining.

9. Salvage Services. Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.

10. Vehicle Storage (Long-Term). Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

11. Warehousing. Uses including open-air storage, distribution, and handling of goods and materials, but not including storage of hazardous materials. Typical uses include monument yards or open storage.

167.10 TRANSPORTATION USE TYPES. Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

1. Aviation Facilities. Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

2. Railroad Facility. Railroad yards, equipment servicing facilities, and terminal facilities.

3. Transportation Terminal. Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, and public transit facilities.

4. Truck Terminal. A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

167.11 MISCELLANEOUS USE TYPES.

1. Alternative Energy Production Devices. The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geothermal energy installations, or water-powered mills or generating facilities.

2. Broadcasting Tower. A structure for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district.

3. Amateur Radio Tower. A structure for the transmission or broadcasting of electromagnetic signals by FCC-licensed amateur radio operators.

4. Construction Batch Plant. A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

5. Wind Enemy Conservation System (WECS). Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.

6. Landfill (Non-Putrescible Solid Waste Disposal). The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials, and ceramic tile.

7. Landfill (Putrescible and Non-Putrescible Solid Waste Disposal). The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency or the State. Typical disposal material would include non-putrescible wastes and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

[The next page is 1569]

CHAPTER 168

ZONING REGULATIONS - ZONING DISTRICT REGULATIONS

168.01 Purpose
168.02 Establishment of Districts
168.03 Application of Districts
168.04 Development Regulations
168.05 Zoning Map
168.06 Interpretation of District Boundaries
168.07 Vacation of Streets and Alleys
168.08 Permitted Uses

168.01 PURPOSE. This chapter presents the Zoning District Regulations. Zoning Districts are established in this Zoning Code to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

168.02 ESTABLISHMENT OF DISTRICTS. The following base districts and overlay districts are hereby established. Table 168.08-01 displays the purposes of these districts.

Base Zoning District	District Name
R-1	Low Intensity Residential District
R-2	Urban Family Residential District
R-3	Multiple-Family Residential District
MH	Mobile Home Residential District
CC	Community Commercial District
UC	Urban Center District
LI	Limited Industrial District
Overlay District	**District Name**
PUD	Planned Unit Development Overlay District
F	Floodplain or Floodway Overlay District

168.03 APPLICATION OF DISTRICTS. A base district designation shall apply to each lot or site within the City and its planning jurisdiction. Each site must be in one base district. The Planned Unit Development and Floodplain or Floodway Overlay Districts may be applied to any lot or site, or any portion thereof, in addition to any base district designation.

168.04 DEVELOPMENT REGULATIONS. For each zoning district: Purposes are set forth in Table 168.08-01; uses permitted are set forth in Table 168.08-02; and site development regulations are presented in Table 168.08-03. Supplemental regulations may affect specific land uses or development regulations in each zoning district. The applicable supplemental regulations are noted in Table 168.08-02.

168.05 ZONING MAP.

1. Adoption of Zoning Map. Boundaries of zoning districts established by this Zoning Code shall be shown on the Zoning Map maintained by the Clerk. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of and concurrent with this Code. The Zoning Map shall be prominently displayed in the Council Chambers or an area accessible to the public at City Hall.

2. Changes to the Zoning Map. The Zoning Map may be changed by ordinance, following the procedure set forth by Chapter 177. Such changes shall be reflected on the Zoning Map. The Zoning Administrator shall keep a complete record of all changes to the Zoning Map.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 168.05 of this chapter and have not been codified herein but have been specifically saved from repeal and are in full force and effect.

ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
98-1	February 2, 1998		
99-2	April 5, 1999		
2-Jul	July 16, 2007		
3-Sep	April 6, 2009		
19-07	October 21, 2019		

[The next page is 1575]

168.06 INTERPRETATION OF DISTRICT BOUNDARIES. The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

1. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.

2. Where district boundaries are indicated as within street or alley, railroad, or other identifiable rights-of-way, the centerline of such rights-of-way shall be deemed the district boundary.

3. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.

4. The Council shall determine any other uncertainty regarding district boundaries not covered in this section.

168.07 VACATION OF STREETS AND ALLEYS. Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

168.08 PERMITTED USES.

Table 168.08-01 Purposes of Zoning Districts		
Symbol	**Title**	**Purpose**
R-1	Low Intensity Density Residential	This district is intended to provide for low to medium-density residential neighborhoods, characterized by single-family and two-family dwellings on moderately sized lots with supporting community facilities and urban services. Its regulations apply to established parts of the City and to new areas which are developed to higher residential densities. Regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure
R-2	Urban Family Residential	This district is intended to provide for medium-density residential neighborhoods, characterized by single-family dwellings on small to moderately sized lots and low-density, multiple-family development. It provides special regulations to encourage innovative forms of housing development. It adapts to both established and newer neighborhoods, as well as transitional areas between single-family and multi-family neighborhoods. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure

Table 168.08-01 Purposes of Zoning Districts		
Symbol	**Title**	**Purpose**
R-3	Multiple-Family Residential	This district is intended to provide locations primarily for residential multiple-family housing, with supporting and appropriate community facilities. It also permits some nonresidential uses, such as offices, through a special permit procedure, to permit the development of mixed-use neighborhoods
MH	Mobile Home Residential	This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods
CC	Community Commercial	This district is intended for commercial facilities which serve the needs of markets ranging from several neighborhoods to the overall region. CC Districts are appropriate at major intersections, at the junction of several neighborhoods, or at substantial commercial sub-centers
UC	Urban Center	This district recognizes the mixed-use character primarily along the University Avenue corridor, which is the principal route through the center of the City. This district contains a combination of residential, commercial, and office uses and is known for its walkability and main street feel
LI	Limited Industrial	This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development while assuring that facilities are served with adequate parking and loading facilities
Special and Overlay Districts: These districts may be applied to a parcel in combination with a Base Zoning District. Overlay Districts are intended to help the City manage development in areas that exhibit special characteristics or features that warrant a greater differentiation of standards. Special and Overlay Districts include: Planned Unit Development District. Floodplain/Floodway District. Specific purposes and standards for each Overlay District are detailed in Chapter 169: Special and Overlay Districts.		

Table 168.08-02 Permitted Uses by Zoning District							
Use Types	**R-1**	**R-2**	**R-3**	**MH**	**CC**	**UC**	**LI**
Administration	C	C	C	C	P	P	P
Adult Entertainment							C
Agricultural Sales or Service					C		P
Alternative Energy Production Devices	C	C	C	C	C		P
Amateur Radio Tower	P	P	P	P	P	P	P
Animal Production							C
Auto Rental or Sales					P		P
Auto Services					P	C	P
Bars					P	P	P
Bed and Breakfast	C	C	C		P	P	
Body Repair					C		P
Broadcasting Tower					C		C
Business Support					P	P	P
Business or Trade School					P	P	P
Cemetery	C	C	C				
Civic Organizations	C	C	C	C	P	P	
College/University	C	C	C	C	P	C	
Commercial Breeders							P
Commercial Recreation (General)					C	C	P
Commercial Recreation (Limited)					P	P	P
Communications Services					P	P	P
Construction Batch Plant							P
Construction Sales/Service					P		P
Construction Yards							C
Consumer Services					P	P	P
In-Patient Services	C	C	C	C	P	C	
Convenience Storage					C		P
Crop Production							
Cultural Services	C	C	P	P	P	P	P
Custom Manufacturing					C	C	P
Daycare (General)	C	C	P	C	P	P	C
Daycare (Limited)	P	P	P	P	P	P	C
Detention Facilities							C
Emergency Residential	C	C	C	C	P	P	C
Equipment Rental or Sales							P
Equipment Repair							P
Family Home	C	C	P	C		P	
Financial Services			C		P	P	P
Firework Sales							P
Food Sales (Convenience)					P	C	
Food Sales (General)					P	C	
Food Sales (Limited)					P	P	
Funeral Services		C	C		P	P	
Gaming Facility					C	C	
General Industry							C

Table 168.08-02 Permitted Uses by Zoning District							
Use Types	**R-1**	**R-2**	**R-3**	**MH**	**CC**	**UC**	**LI**
General Offices			C		P	P	P
General Retail (Large-Scale)					P	C	
General Retail (Small-Scale)					P	P	
Group Care Facility	C	C	P	C	P	P	C
Group Home	C	C	P	P	P	P	
Guidance Services			C		P	P	P
Health Care (Large-Scale)			C		C	C	C
Health Care (Small-Scale)		C	C		P	P	P
Heavy Industry							C
Horticulture					C		
Landfill (Putrescible)							C
Landfill (Non-Putrescible)							C
Laundry Services					P	C	P
Liquor Sales					P	P	
Light Industry							P
Lodging					P	P	
Maintenance Facility							P
Manufactured Housing Residential	P	P	P	P			
Medical Offices			C		P	P	P
Mobile Home Park				C			
Off-Street Parking					C	C	P
Parking Structure					C	P	P
Parks and Recreation	P	P	P	P	P	P	P
Pawn Shop							C
Pet Services					P	C	P
Postal Facilities					P	P	P
Primary Education	P	P	P	P	P	P	
Public Assembly	P	P	P	P	P	P	
Railroad Facilities							P
Recycling Collection					C		P
Recycling Processing							C
Repair Services							P
Research Services					P	P	P
Residential, Accessory Dwelling Unit	P	P	P	P		P	
Residential, Downtown						P	
Residential, Duplex	C	P	P			P	
Residential, Multi-Family		C	P		C	P	
Residential, Single-Family Detached	P	P	P	P		P	
Residential, Townhouse		C	P		C	P	
Resource Extraction							C
Restaurants (Drive-In)					P	C	P
Restaurants (General)					P	P	C
Retirement Residential	C	C	P	C		C	
Safety Services	C	C	P	P	P	P	P
Salvage Services							C
Secondary Education	C	C	C	C	P	P	
Surplus Sales					C	C	P

Table 168.08-02 Permitted Uses by Zoning District							
Use Types	**R-1**	**R-2**	**R-3**	**MH**	**CC**	**UC**	**LI**
STVR (Short Term Vacation Rental)	P	P	P	P	P	P	
Trade Services					P	C	P
Transportation Terminal					P	C	P
Truck Terminal							C
Utilities	C	C	C	C	P	P	P
Vehicle Storage (Short-term)							P
Vehicle Storage (Long-term)							C
Veterinary Services					P	P	P
Warehousing							C
Note: P = Uses Permitted by Right C = Uses Permitted by Conditional Use Permit approval according to Section 177.03 Blank = Use Not Permitted							

Table 168.08-03 Summary of Site Development Regulations				
Regulator	**R-1**	**R-2**	**R-3**	**MH**
Minimum Lot Area (square feet)	7,200	7,200	7,200	See Section 172.02
Minimum Lot Width (feet)	50	50	50	See Section 172.02
Minimum Yards Setbacks (feet)				
Front Yard Setback	25	25	25	See Section 172.02
Street Side Yard Setback	25	25	25	See Section 172.02
Interior Side Yard Setback	5	5	5	See Section 172.02
Rear Yard Setback	15	15	15	See Section 172.02
Maximum Height (feet)				
Main Building	35	35	35	See Section 172.02
Accessory Building	25	25	25	See Section 172.02
Maximum Building Coverage	40%	50%	50%	See Section 172.02
Maximum Impervious Coverage	65%	65%	65%	50%
Maximum Residential Units Per Acre (du/ac)	7.5	10	20	20
Lighting Zone	LZ-1	LZ-1	LZ-2	LZ-2

[The next page is 1585]

CHAPTER 169

ZONING REGULATIONS - OVERLAY DISTRICTS

169.01 General Purpose
169.02 Planned Unit Development District

169.01 GENERAL PURPOSE. Overlay Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to the special needs of different parts of the City. The Overlay Districts are designed to achieve the following objectives:

1. To recognize special conditions in specific parts of the City which require specific regulation.

2. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

169.02 PLANNED UNIT DEVELOPMENT DISTRICT. The Planned Unit Development (PUD) Overlay District is intended to provide flexibility in the design of planned projects, to permit innovation in project design that incorporates open space and other amenities, and to ensure compatibility of developments with the surrounding urban environment. The PUD District may be used in combination with any base district specified in this Zoning Code. The PUD District, which is adopted by the Council with the recommendation of the Planning and Zoning Commission, assures specific development standards for each designated project. All projects in the PUD District shall follow the procedures set forth in Chapter 170.

1. Permitted Uses. Uses permitted in a PUD Overlay District are those permitted in the underlying base district.

2. Site Development Regulations. Site development regulations are developed individually for each Planned Unit Development District but must comply with minimum or maximum standards established for the base district, with the following exceptions:

   A. Lot area and lot width are not restricted, provided that the maximum density allowed for each base district is not exceeded.

   B. Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.

3. Access to Public Streets. Each PUD District must abut a public street for at least 50 feet and gain access from that street.

4. Adoption of District.

   A. The Planning and Zoning Commission and Council shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary, to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

B. The Planning and Zoning Commission, after proper notice, shall hold a public hearing and act upon each application.

C. The Planning and Zoning Commission may recommend amendments to PUD District applications.

D. The recommendation of the Planning and Zoning Commission shall be transmitted to the Council for final action.

E. The Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing a Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment.

F. An ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable simple majority of the Council for approval.

G. Upon approval by the Council, the Development Plan shall become a part of the ordinance creating or amending the PUD District. All approved plans shall be filed with the Clerk.

5. Amendment Procedure. Major amendments to the Development Plan must be approved according to the same procedure set forth in Subsection 4 of this section.

6. Building Permits. The City shall not issue a Building Permit, Certificate of Occupancy, or other permit for a building, structure, or use within a PUD District unless it is in compliance with the approved Development Plan and any approved amendments.

7. Termination of PUD District. If no substantial development has taken place in a Planned Unit Development District for 18 months following approval of the District, the Planning and Zoning Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.

[The next page is 1591]

CHAPTER 170

ZONING CODE - DEVELOPMENT AND DESIGN STANDARDS

170.01 Purpose and Scope
170.02 Development and Design Standards
170.03 Jurisdiction
170.04 Validity of Approval
170.05 Amendment
170.06 Site Review
170.07 Site Plan Review Requirements

170.01 PURPOSE AND SCOPE. The purpose of this chapter is to provide guidance and standards for development within the City in order to guide development in a manner which is conducive to protecting the health, safety, and general welfare of residents and property owners within the City. All development and redevelopment of land or property within the City shall minimize adverse effects upon adjacent properties by maintaining or improving upon the aesthetic quality of a surrounding area, and by providing adequate pedestrian and traffic safety, emergency access, water supply, sewage disposal, management of stormwater, and erosion and sediment control. Site plan review and approval by Council shall be required for all principal structures other than individual single-family detached, duplex, and parking lot as a primary use in any zoning district.

170.02 DEVELOPMENT AND DESIGN STANDARDS. This section provides for the administration and enforcement of site plans, establishes standards for site and building design, and shall be known, referred to, and cited as the "Development and Design Standards" of the City.

170.03 JURISDICTION. No permit shall be issued for any lot or development requiring the approval of a site plan after the effective date unless it is in compliance with the provisions of the regulations of the Code. No development, except where specified within the Code, may be created, substantially improved, converted, enlarged, or otherwise altered without conforming to the provisions of this section, all applicable provisions of the *Code of Iowa*, as amended, and all applicable provisions of the City Code, as amended.

170.04 VALIDITY OF APPROVAL. A site plan shall become effective upon certification of approval by the Council. The Council's approval of any site plan required by this Code shall remain valid for one year. A one-year extension may be granted with the approval of the Council. If development has not been established or construction commenced within one year, or two years in case of a received extension, the site plan shall be deemed null and void. For the purpose of this chapter, "actual construction" shall mean that the permanent placement of construction materials and utility work has started and is proceeding without undue delay with an approved Building Permit. 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. At the time of site plan approval, the Council may grant an exemption on the time construction shall begin after their approval is given for a utility service structure.

170.05 AMENDMENT. Any site plan may be amended in accordance with the standards and procedures established herein, including payment of fees, provided that the Administrative Official may waive such procedures for those minor changes hereinafter listed. Such minor

changes shall not be made unless the prior written approval for such changes is obtained from the Administrative Official. No fees shall be required for such minor changes. Minor changes include, but are not limited to the following:

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved buildings.

2. Relocation of building entrances or exits.

3. Shortening of building canopies.

4. Changing to a more restrictive commercial or industrial use, provided the number of off-street parking spaces meets the requirements of the Zoning Code. This does not apply to residential uses.

5. The changing of the angle of parking or aisle provided there is no reduction in the amount of off-street parking as originally approved.

6. Substituting plant species provided a landscape architect, engineer, or architect certifies the substituted species is similar in nature and screening effect.

170.06 SITE REVIEW. The Administrative Official is responsible for the established site plan and site review Process. The Administrative Official will serve as the Administrator of this chapter and the liaison between the applicant and reviewing bodies to ensure compliance with this chapter is met.

1. Notice and Hearings.

A. Public Hearing. Before submitting its recommendation on a site plan to the Council, the Planning and Zoning Commission shall hold at least one public hearing thereon, notice of which will be given to all property owners within 200 feet, whenever possible. Notice shall be published of said hearing in a newspaper of general circulation, as required by, and in conformance with, State law. The notice shall state the place and time at which the proposed amendment to the ordinance will be held as well as the legal description or address of said property.

2. Submission Requirements. The applicant shall submit a Site Review application and all associated fees with preliminary plans to the Planning Department. The Planning and Zoning Commission is required to review site plans and make a recommendation to the Council. Additionally, the applicant will provide:

A. Full name, address, and contact information of the applicant in a reproducible electronic format.

B. Full legal description of the property in a reproducible electronic format.

C. Name and address of all property owners within 200 feet of the proposed development in a reproducible electronic format.

3. Applicability. A site plan review shall be required for the following:

A. New construction;

B. Major reconstruction (more than 30 percent of the exterior structure is affected);

C. Major renovation (more than 30 percent of the interior structure is affected);

D. Changes to parking (more than 30 percent of the existing area);

E. Any development the Zoning Administrator deems is substantial enough to require oversight by the Planning and Zoning Commission with site plan review.

4. Pre-Application Meeting. The applicant is required to attend a scheduled predevelopment meeting with City staff to review a conceptual site plan prior to the submittal of a full site plan. Following the predevelopment meeting, the applicant shall submit a complete site plan in accordance with the requirements of the site plan and any other information determined to be necessary for review at the Planning and Zoning Commission meeting.

5. Elevations. As part of the review process, an applicant shall provide colored architectural elevation drawings for each elevation of the building or buildings proposed for new construction, addition, alteration, or the like.

A. The elevation drawings should be provided in 11 inches by 17 inches format unless otherwise approved by the Administrative Official.

B. Each elevation drawing should include massing dimensions and callouts of the proposed materials indicated on the elevation.

C. In the event that accessory structures are proposed as a part of the site plan review process, the Administrative Official shall have the ability to request elevation drawings or colored details of said accessory structures to ensure compliance with the provisions of this chapter.

170.07 SITE PLAN REVIEW REQUIREMENTS. Site plans shall be submitted in electronic format with the ability to provide physical copies sized 24 inches by 36 inches upon request by the Zoning Administer. A site plan will not be submitted to the Planning and Zoning Commission for action until it is deemed complete. The Administrative Official has the authority to deem the submittal complete. Review and comment by the Fire Inspector, Public Works Engineer, and other administrative officials will be obtained before Planning and Zoning Commission review. It is permissible and encouraged to introduce large and potentially controversial projects to City staff as far in advance as possible. The applicant shall provide City staff with information determined to be applicable to the project by the Administrative Official. The proposal shall then be brought before the Planning and Zoning Commission in order to receive a recommendation before being presented to the Council. Action of the Planning and Zoning Commission and Council shall be approval, approval subject to conditions, denial, or table for further review. A site plan may be presented for consideration by the Council in the event of a recommendation of denial by the Planning and Zoning Commission. In the event of denial of a site plan by the Council, the applicant would be required to resubmit and begin the review process anew to have another proposal considered by the Planning and Zoning Commission and Council. Resubmittal will not be accepted until one year after a denial from the Planning and Zoning Commission or Council. Resubmittal of a site plan shall be subject to all applicable costs associated with a review of the documentation unless an exception is made by City staff. Site plan review shall exist as a measurement determined by the City to meet the

objectives outlined by the Comprehensive Plan. The following information shall be clearly provided on the site plan:

1. Narrative information to be provided:

A. Name and address of property owner; including telephone and email.

B. Name and address of applicant; provide if different than the property owner.

C. Name and address of plan preparer; including telephone and email.

D. Following Council or administrative approval, the certification of the Architect and Civil Engineer licensed in the State. Include seal, date, and signature on all applicable drawings prior to Council approval of the site plan. Other certification may be requested, when appropriate, by the Administrative Official.

E. Certification of a Registered Land Surveyor licensed in the State. Include seal, date, and signature on applicable drawings prior to Council Approval.

F. Current Zoning of Property. List the property's existing zoning consistent with the Official Zoning Map. Include any overlay districts the property may be within, and the land use identified in the current Comprehensive Plan where the property is located.

G. Legal Description of Site. Include the plat name and lot number for all new site plans.

H. Total Area of Site. The total area of the site should be indicated in acres and square feet.

I. Open Space.

(1) Indicate the total area of the proposed site in square feet, the area of open space within the site, and its percentage of the total site. The calculation should include all open space pervious areas and permitted pedestrian plazas.

(2) The total area of the site reserved for parking facilities, the open space within the defined parking area, and its percentages of the total parking area should be calculated and indicated in square feet.

J. Pervious and Impervious Surface. Indicate the total area of the proposed site in square feet, the area of pervious surface, and the area of impervious surface including all structures.

K. Proposed Use of Site. Indicate all proposed uses for the site and buildings as known at the time of application.

L. Parking Stalls. The total number of parking stalls required based on the proposed building uses of the site should be indicated. If more than one building use is proposed for the site, each individual parking stall requirement should be indicated separately of the total.

M. Loading Areas. If applicable to the proposed building uses of the site, the number of required and provided loading stalls should be indicated.

N. Setback Requirements. All setback requirements of the applicable zoning district within which the proposed site is located should be provided.

O. Special Flood Hazard Area. The 100-year flood elevation should be indicated based on the most recent FEMA FIRM Map.

2. Plan Information.

A. General and Survey Information.

(1) North Arrow. Include on site plan and all other applicable sketches, drawings, and details.

(2) Scale of Drawing. A minimum scale of one-inch equals 30 feet shall be required.

(3) Vicinity Sketch. A minimum scale of one-inch equals 800 feet shall be used to indicate the properties within 300 feet of the proposed site location. The boundary of the proposed site location should be clearly defined in relation to other properties shown within the vicinity sketch.

(4) Site Boundary. All property lines shall be delineated with a heavy line.

(5) Bearing and Distances or Curve Data Along Boundary. Information shall be indicated as platted. Any measured information different than platted should be identified.

(6) Name and Address of All Adjoining Property Owners. All property lines adjacent to the proposed site, or across street right-of-way, shall be indicated with the owner or subdivision names in addition to any adjoining lot numbers, as appropriate.

(7) Existing Features. All existing physical features shall be indicated on the site plan including, but not limited to, plant materials, drainage ways, structures, fences, and any encroachments. Projects involving numerous existing features may be requested to submit a demolition, removal, or relocation plan as determined to be most beneficial.

(8) Soil Tests and Similar Information. Soil tests and similar information may be required to determine the feasibility of the proposed development in relation to the design standards set forth herein.

(9) Topography. The existing and proposed topography shall be indicated with a maximum of two-foot intervals. Spot elevations may also be required at the request of the Administrative Official.

(10) Limits of Phased Construction. If the site is to be developed in more than one phase, the limits of each proposed construction or development phase shall be indicated, including all facets of the phasing proposed.

(11) Additional Information. Drawings or other materials necessary to describe a proposed project may be requested by the Planning and Zoning Commission or Administrative Official. The

applicant may include additional information or materials such as sketches, videos, models, or photos if they help explain the proposal.

B. Building Footprint.

(1) Footprint. An accurate representation of the proposed buildings footprints, including exterior structures incorporated into the building mass, and proposed internal demising walls known at the time of application.

(2) Size. Include the total square footage of each proposed floor, the number of floors, and the amount of finished area on each floor including any proposed basement area. For all multi-family and townhome proposals, the total number of units proposed for each building footprint should be indicated.

(3) Entryways. The location of all proposed entries, service doors, and overhead doors.

(4) Mechanical Units. Indicate the proposed location and type of all proposed ground mechanical units, including air conditioning units, telephone pedestals, transformers, coolers, or other similar units.

(5) Trash Enclosures. Indicate the proposed location of all trash enclosures for the site and provide a detail of the structure for review.

C. Building Façade.

(1) Façade Material. Indicate the proposed materials on each building.

(2) Façade Coverage. The percentage of the façade that each material covers will be indicated on the site plan and conform to design standards within the respective zoning district.

D. Pedestrian Circulation.

(1) Paths. All proposed sidewalks, trails, and pathways should be indicated as appropriate on the site plan including the width, thickness, and type of pavement. All sidewalks, trails, and pathways shall be constructed to the City Standard Specifications as applicable to the project. Wherever possible, bike racks should be provided.

(2) Connectivity. Pedestrian corridors should be indicated from any public street to all proposed principal buildings.

(3) Stoops. All proposed emergency exits where a sidewalk is not indicated shall provide a stoop of an approved dimension determined to be adequate in providing a safe exit from the building.

E. Streets and Access.

(1) Access. All existing and proposed access drives to the site from a public street shall be indicated on the site plan and shall include appropriate spacing as determined by the City's Engineer.

(2) Public Improvements. All public improvements required of the developer shall be indicated on the site plan. The number of improvements required shall be determined by the Comprehensive

Plan, streetscape plan, a traffic impact analysis, or any other approved documentation identifying the amount and type of improvements necessary to accommodate increased activity to the site or to facilitate future development as it relates to the development of said site.

(3) Private Streets. The use of private streets may be allowed if the proposed private streets meet the following criteria:

a. Proposed private streets are built to the City Standard Specifications for public streets.

b. They are maintained by the property owners requiring the private streets through a Homeowners Association or through an approved development agreement between the developers and the City.

c. The width and thickness of the private streets are appropriate as determined by the City Engineer or a traffic impact study in accordance with the City specifications.

d. Sidewalks should be installed on both sides of the private streets unless additional landscaping or open space is incorporated into the site in an amount approved by the Council in relief of one sidewalk per street.

e. A public ingress or egress easement is provided over the private street's location.

(4) Shared Access.

a. Any project where the development of townhomes provides access to garages from a public street shall provide a shared access drive between two or more units in order to minimize the amount of obstruction to the flow of traffic along said public street.

b. Any development of commercial property, where shared access is anticipated, shall provide an easement and conceptual building footprints for all proposed lots which are proposed to share the access drives.

F. Parking and Loading Areas.

(1) All proposed parking and loading areas incorporated in the site plan shall meet the requirements in the Zoning Code and all other applicable State and federal regulations.

(2) A complete traffic circulation and parking plan should indicate the location and dimensions of all existing and proposed parking stalls, loading areas, entrance and exit drives, sidewalks, dividers, planters, and other similar permanent improvements in addition to traffic movements within access drives in order to better identify any potential traffic impediments based upon the proposed parking configuration and access drives.

(3) Individual parking stalls should be indicated as appropriate and differentiated from parking aisles. Stalls intended to accommodate handicapped accessibility should be indicated appropriately.

(4) Proposed loading areas and loading docks should indicate traffic movements, where applicable, to determine maneuverability within the site.

G. Lighting.

(1) A lighting plan should be provided with all site plans indicating the location, type, height, power rating, and any shielding methods required of all existing or proposed lighting fixtures. The lighting shall follow all applicable City ordinances including dark-sky standards. See Chapter 172.13.

(2) A manufacturer's cut-sheet shall be provided for each type of lighting fixture incorporated into the site layout including its materials and color. Information required from the cut sheet shall include the description of lamps, supports, reflectors, and any other components of a particular lighting fixture. The site plan shall indicate all proposed lighting as depicted by the manufacturer.

(3) A photometric plan shall also be required, identifying the horizontal illumination of the site and the vertical light trespass along the perimeter of the site. The photometric plan shall show a point-by-point foot-candle reading for the entire site at a minimum spacing of 10 feet between each point, including two feet past the property line. The vertical photometric plan shall only be required along the property line with a maximum spacing of 10 feet.

H. Lighting Standards.

(1) Definitions. Unless the context clearly indicates otherwise, the words and phrases used in this chapter shall have the following meaning:

a. Exterior Lighting. Temporary or permanent lighting that is installed, located, or used in such a manner to cause light rays to shine outdoors.

b. Exterior Lighting Fixture. The complete exterior lighting unit, including the artificial source of light, the parts required to distribute the light, elements for light output control such as the reflector (mirror), or refractor (lens), the housing that protects and holds the light in place, the connection to the power supply, and the component that anchors the lighting unit to the ground or onto a structure.

c. Floodlight. A lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

d. Foot-candle. The illuminance measured one foot from a one candle source.

e. Full Cut-Off. A shielded light fixture that emits no light above a horizontal plane touching the lowest point of the fixture.

f. Glare. The light in a direction near one's line of sight that either causes discomfort to the eye or impairs visibility.

g. Horizontal and Vertical Foot-Candles. The illuminance, measured by a light meter, striking a vertical or horizontal plane.

h. Illuminance. The intensity of light in a specified direction measured at a specified point.

i. Light. A form of radiant energy acting on the retina of the eye to make sight possible.

j. Light Trespass. Unwanted light falling on public or private property from an external location.

k. Recreational Facility. Football fields, soccer fields, baseball fields, tennis courts, swimming pools, or any other special event or show area.

I. Lighting Design.

(1) Required Lamps. Generally, all lamps shall be halogen, metal halide, LED, or others with similar qualities to reduce glare and provide for improved color correct vision. Full cut-off high pressure sodium lamps, not exceeding a maximum lumen rating of 16,000 lumens, may be used in outdoor storage areas where the need for good color rendering capabilities for safety and security is not necessary. Such areas shall not be accessible to the general public or adjacent to R-1, R-2, and R-3 zoned property.

(2) Required Exterior Lighting Fixtures. All exterior lighting fixtures shall be full cut-offs. No portion of the lamp, lens, or diffuser shall be visible from the side or top of any shield or otherwise protrude from the bottom of the shield. No exterior lighting fixture shall emit light at or above a horizontal plane that runs through the lowest point of the shield.

(3) Commercial and Industrial Architectural and Decorative Lighting.

a. Limited building-mounted lighting may be used to highlight specific architectural features or primary customer or building entrances. Floodlights are only permitted provided all light emitted is contained by the building or by an eave or protruding structure.

b. Lighting fixtures shall be located, aimed, and shielded to minimize the glare that is emitted on objects other than a building's façade or landscape walls.

c. Building-mounted neon lighting may only be used when the lighting is recessed or contained inside a cap or architectural reveal.

d. An exterior lighting fixture that emits less than 1800 lumens shall not be required to be a full cut-off fixture,

provided that the lamp itself creates no glare or has an opaque covering.

(4) Site and Parking Lot Lighting.

a. The mounting height for lighting fixtures shall not exceed 25 feet from grade to the top of the lighting fixture.

b. The maximum average-maintained foot-candles for a parking lot lighting fixture shall be three foot-candles. The maximum lighting level for a parking lot lighting fixture shall be 10 foot-candles.

c. The maximum horizontal foot-candle measurement at any property line shall be two foot-candles. The maximum maintained vertical foot-candle at an adjoining property line shall be two foot-candles, as measured at five feet above grade. If the adjacent property is the same owner, the light trespass limits may be waived by the Council.

(5) Canopy Lighting. The maximum maintained foot-candles under a canopy shall be 35 foot-candles. Areas outside the canopy shall be regulated by the guidelines and standards outlined above. Permissible fixtures for canopy lighting include:

a. Recessed fixtures that incorporate a lens cover that is either recessed or flush with the bottom surface of the canopy.

b. Indirect lighting where light is emitted upward and then reflected down from the underside of the canopy. Such fixtures shall be shielded to ensure that no light is emitted at or above a horizontal plane that runs through the lowest point of the canopy.

(6) Street Lighting. All private street light fixtures shall measure no more than 30 feet from grade to the top of the lighting fixture and shall be cobra-style unless the Commission and Council permit the installation of an alternative fixture. The Commission and Council may approve an alternative lighting fixture only after a determination has been made that the alternative fixture has been designed to avoid glare and trespass. The use of lighting fixtures that direct light upward into the air is strictly prohibited. Public lighting along University Avenue shall conform to the specifications of lighting already in place. All other lighting on public streets shall conform to any adopted streetscape plans.

(7) Pedestrian Walkway Lighting. All pedestrian walkways shall be lit by pedestrian-level, bollard-type lighting (four feet height max.), ground mounted lighting, pole lighting (12 feet height max.), or other low, glare-controlled fixtures that are mounted on building or landscape walls. University Avenue lighting should be followed as above.

(8) Recreational Facilities. The lighting fixtures at all public or private outdoor recreational facilities shall be designed to minimize the amount of light that is directed upward into the air, glare, and light

trespass. The illumination of any public or private outdoor recreational facility after 11:00 p.m. is prohibited, except in order to conclude a specific activity, previously scheduled, which is in progress under such illumination prior to 11:00 p.m.

(9) Exemptions. This chapter shall not apply to the following exterior lighting sources:

a. Airport lighting required by law.

b. Temporary emergency lighting.

c. Temporary lighting, other than security lighting, at construction projects.

d. Governmental facilities where a compelling need for safety and security has been demonstrated.

e. Lighting for flag poles, church steeples, or other similar non-commercial items provided they do not cause distraction within public rights-of-way.

J. Signage.

(1) The location and type of all existing and proposed signage shall be indicated on the site plan.

(2) All signage shall meet the requirements identified within the Zoning Code.

K. Landscaping.

(1) Common and scientific names for all proposed plant material.

(2) Quantity, height or caliper or gallon size (as applicable) of all proposed plant material.

(3) Location of all proposed plant materials.

(4) Number of ground cover plants per square foot to be planted, or pounds of seed per 1,000 square feet, and species or characteristics of grass in all areas to be seeded.

(5) Location, size, and species of all existing plant material to remain. This includes a diagram or tree survey noting the location, size, and species of existing trees and shrubs.

(6) Location of retaining walls, fences, utility easements, existing and proposed structures, and parking areas.

(7) Plant installation details.

(8) Drainage areas.

(9) All proposed trees and plantings of any existing trees larger than six inches in diameter to be removed.

(10) All landscaping necessary for the fulfillment of all City ordinances shall be indicated on the site plan and will conform to Chapter 173.

[The next page is 1607]

CHAPTER 171

ZONING CODE - TEMPORARY USES AND STRUCTURES

171.01 Purpose
171.02 Temporary Uses and Structures
171.03 Compliance with Chapter Provisions
171.04 Permit Required
171.05 Temporary Use Permit Approval
171.06 General Regulations
171.07 Specific Requirements for Related Areas
171.08 Conditions of Approval
171.09 Fees
171.10 Violations and Penalties

171.01 PURPOSE. The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Chapter 168.

171.02 TEMPORARY USES AND STRUCTURES. These regulations are intended to prescribe the conditions under which limited duration activities (e.g., Christmas tree sales, pumpkin sales, landscape material sales, grand openings, special events, etc.) may be conducted. The intent is to allow for the temporary storage, display, and marketing of merchandise on a seasonal basis in an attractive manner to serve the desires of the general public but prevent the creation of any nuisance or annoyance to the occupants of adjacent buildings, premises, or property, and the general public. It is also the intent to establish minimum standards for the operation of temporary uses in a manner that will provide for the health, safety, and welfare of the patrons, employees, the general public, etc. that may utilize or be affected by the establishment of the temporary use.

1. Exemptions.

A. Garage Sales. The casual and occasional sales of used household goods by the owner thereof to the public, on a non-receiving basis, if the seller, at the time of the sale, is not engaged for profit in the business of selling goods of that or a similar nature, so long as such sales are not conducted in excess of three consecutive days and no more than two times annually.

171.03 COMPLIANCE WITH CHAPTER PROVISIONS. No temporary use or structure permit shall be issued, except for when hereinafter provided.

171.04 PERMIT REQUIRED. The following uses are eligible for a temporary permit, provided they meet the following criteria and obtain prior approval from the Zoning Administrator. No temporary use shall occur, and no temporary structures shall be erected, without first obtaining a permit from the Zoning Administrator. All permits are subject to approval by the Zoning Administrator. Further, the Zoning Administrator may impose certain reasonable requirements as may be required to prevent any negative impact to surrounding properties. City sponsored events are exempt from these requirements.

1. Construction Office. If a Building Permit has been issued for the construction of a new building on the same property or if a contractor has another non-building related construction project, the applicant may also apply for a Temporary Use Permit for the purpose of installing any temporary structures used as temporary office, shop,

or storage on the property provided they directly relate to the new construction activity and the temporary structure is removed upon completion of the construction project. Specific uses under this category may include the following:

A. Real estate offices and model homes;

B. Any structure used for construction offices, workshops, and storage;

2. Any other construction-related uses not specified in this section which, in the opinion of the Zoning Administrator, are similar to the uses listed in this section.

A. Special Events. These uses are intended to serve special events such as grand openings, parking lot sales, group assembly activities, etc. These uses typically involve the use of a tent, outdoor shelter, or any other enclosure and temporary structure. Garage sales are exempt from these provisions, provided they do not occur any more frequently than one three-day event per 180-day period. Garage sales occurring more frequently shall be considered a commercial retail sales business in a residential zone, which is prohibited. Specific uses under this category may include the following:

(1) Parking lot sales, sidewalk sales (private sidewalks only), clearance sales, or other temporary uses which, in the opinion of the Zoning Administrator, are similar to the uses listed in this section. For purposes of this section, the term "sidewalks" does not apply to outside areas adjacent to sidewalks that were specifically built for outside sales.

(2) Grand openings and special events, and grand openings which are not sponsored by the City or Chamber.

(3) Group assembly activities not sponsored or endorsed by the City (e.g. carnivals, fairs, rodeos, sports events, concerts, and shows).

B. Temporary food and beverage uses must meet the requirements of Chapter 127.

C. Any other event related uses not specified in this section which, in the opinion of the Zoning Administrator, are similar to the uses listed in this section.

3. Seasonal Related. These uses typically involve the erection or setup of a temporary structure in order to display seasonal goods and wares. This does not include the sale of fireworks. These permitted uses and any related structures expire upon the completion of the season or at another specified date. Specific uses under this category may include the following:

A. Retail sales of Christmas trees and pumpkins.

B. Retail sale of agricultural products and landscape nursery material, unless the establishment sells and is zoned for sales of similar materials.

C. Nurseries and greenhouses.

D. Any other seasonal related uses not specified in this section which, in the opinion of the Zoning Administrator, are similar to the uses listed in this section.

171.05 TEMPORARY USE PERMIT APPROVAL. The Zoning Administrator shall only approve an application for a Temporary Use Permit, if all of the following findings can be made:

1. The proposed temporary use will be compatible with adjacent uses and will not adversely affect the surrounding neighborhood by means of odor, noise, dust, or other nuisance.

2. The additional parking required by the temporary use will be provided on-site, if applicable, or adequate street parking is available in the immediate area.

3. Increased traffic caused by the temporary use will not adversely affect the surrounding neighborhood or City at large.

4. The proposed temporary use is consistent with the Comprehensive Plan, this Code, and all City and State regulations.

171.06 GENERAL REGULATIONS. Each temporary use shall be described in a permit issued by the Zoning Administrator prior to commencement of the use. This permit shall be in addition to all other licenses, permits, or approvals otherwise required by any governmental entity. Each temporary use shall adhere to the following regulations.

1. Length. The temporary use shall be defined as either short-term or long-term.

   A. "Temporary use (short-term)" means a short-term use is a use with a maximum duration of four consecutive days or less.

   B. "Temporary use (long-term)" means a long-term use in duration of more than four consecutive days, but less than six months.

2. Parking Spaces.

   A. The number of additional parking spaces required, if any, and the location of such additional parking space for the temporary activity shall be determined by the Zoning Administrator. The number of permanent parking spaces allowed to be used under the short-term Temporary Use Permit shall be reviewed and determined by the Zoning Administrator.

   B. The maximum number of permanent parking spaces allowed to be used for the operation of a long-term temporary use shall not exceed 20 percent of the parking on a site plan that was approved by the City to be counted toward the allowable size of the long-term temporary use or 20 percent of the site area, whichever is more restrictive.

3. Signs.

   A. Non-Illuminated Detached Signs.

      (1) Amount.

      (2) A maximum of two detached signs.

   B. Size.

      (1) The total size area much be below 60 square feet.

      (2) Each sign may have a maximum size area of 30 square feet.

4. Cleanliness.

   A. All sites shall be completely cleaned of debris and temporary structures including, but not limited to, trash receptacles, signs, stands, poles, electric

wiring, or any other fixtures and appurtenances or equipment connected therewith, within five days after the termination of the sale or special event.

B. A bond or cash deposit in the amount of $500.00 shall be deposited with the City to assure adequate cleanup of activities that occur on vacant or undeveloped lots or involving the construction or placement of temporary structures. The bond for long-term temporary food and beverage uses shall be in the amount of $750.00. Activities located in fully developed shopping centers will be exempt from bonding, with the exception of uses that involve the construction or placement of a temporary structure, and any long-term temporary food and beverage facilities shall be required to post a bond or cash deposit. The Zoning Administrator may waive this requirement for normal and customary uses incidental complementary to the principal use.

5. Sanitary Facilities.

A. Sanitary facilities, either portable or permanent, shall be made available to all employees, attendants, and participants of the activity during its operational hours, as approved by the Zoning Administrator in concurrence with the City Engineer and County Health Department, unless stipulated otherwise in this chapter. If the restroom facilities are located within an adjacent building, the written authorization of the owner of the adjacent building shall be required specifically stating that the restroom facilities will be made available to the employees, attendants, and participants at all times during the hours of operation of the temporary use activity.

6. General Regulations.

A. No area of public right-of-way may be used without obtaining approval from the Zoning Administrator, who will confer with the Police Chief, Fire Chief, Public Works Director, and the City Administrator.

B. Proof of ownership or a signed letter, either from the property owner or an authorized representative for the property on which the activity is to take place, shall be presented at the time the temporary permit is requested.

C. All temporary structures including, but not limited to, greenhouses, trailers, mobile homes, signs, etc., shall conform to the zoning setback requirements unless stated otherwise in this chapter. Temporary structures are also subject to permit requirements as set forth in Chapter 152.

7. Application Requirements. Applications for the temporary use shall be accompanied by the prescribed number of copies of a project plan and such other detailed elevations, plans, and other information as may be required to adequately evaluate the proposed use. A plan of the layout of the proposed use shall be submitted to the City with the application on a base plan prepared in accordance with the site plan requirements of the City. The proposed layout of the garden center area may be drawn onto a copy of a previously approved site plan for the Temporary Use Permit submittal. The layout plan shall identify the following:

A. Area. The area on the site proposed to be utilized as part of the temporary use and associated sales areas.

(1) Delineate how different areas will be used.

B. Traffic.

(1) Proposed modifications to the traffic patterns and methods proposed to notify patrons and identify the temporary traffic pattern changes, i.e., signage, traffic cones, fencing, and barriers, etc.

(2) Proposed vehicle loading zone.

(3) Proposed temporary barriers or corrals with an architectural elevation, photo, or sketch of the barriers' proposed construction.

C. Location of Facilities.

(1) Electrical Connection.

a. Overhead power connection with a minimum clearance above a grade of 14 feet;

b. Installation of an underground conduit; or

c. Other method acceptable to the City. The use of an overhead connection shall only be allowed in those areas where overhead electrical service currently exists in the area. Use of extension cords, cables, or wires, whether lying on the ground or otherwise connected to a power source, is expressly prohibited for long-term garden center uses. An electrical permit shall be obtained prior to any electrical installation or connection.

(2) Water connection.

(3) The applicant shall provide, as determined by the Zoning Administrator, adequate facilities for the disposal of trash, waste, pallets, and display racks.

(4) Restroom facilities shall be provided at all times during the temporary use activity.

D. Indemnification and Proof of Insurance.

(1) The owner or operator of any long-term temporary use shall provide evidence of comprehensive general liability coverage and contractual liability insurance by an insurance company licensed to do business in the State in the limits of at least $1,000,000.00 for each personal injury accident or death; $1,000,000.00 for each aggregate personal injury or death; and $1,000,000.00 for each property damage accident. The evidence shall name the City as a coinsured and shall state that it cannot be canceled or materially altered without giving the City at least 30 days' written notice by registered mail, return receipt requested. The owner or operator of a temporary garden center or the property owner shall execute an agreement, acceptable to the City, which indemnifies and holds harmless the City from any and all liability, damages, claims, costs, expenses, interest, and reasonable attorney fees relating to the temporary use and associated facilities on the property.

E. Removal. At the expiration of the Temporary Use Permit, any structures, barricades, shelving, pallets, leftover merchandise, or other facilities associated with the temporary use shall be removed from the site.

F. Safety Standards. In order to promote the safety of the patrons of these facilities, the following shall be required:

(1) Bulk material shall be neatly and safely stacked.

(2) All sales areas shall be separated from vehicular uses by the placement of a fence or barrier acceptable to the Zoning Administrator to prevent pedestrian and vehicular conflicts. If a barrier is of an open nature where patrons can reach through and obtain access to the merchandise, a four-foot walkway shall be located adjacent to the barrier to prevent patrons from standing outside the barrier in traffic ways to shop.

(3) The door openings for any greenhouses, shade structures, or similar enclosures shall have a minimum 10-foot setback from drive aisles where an opening in the barrier is provided aligned with the door of the structure.

8. Where openings in the barriers occur for pedestrian access, sight visibility shall be maintained so that vehicles can clearly see pedestrians approaching the opening from a distance of no less than 50 feet.

9. Temporary drive aisles shall be maintained at a minimum 24-foot width for two-way traffic and shall be delineated by the placement of traffic barriers, fencing, or some other physical marker that clearly informs drivers of the end of the parking area and the start of the drive aisle. A clear line of sight shall be maintained at the entrance and exit of the temporary drive aisles.

10. Vehicle loading areas shall be located in an area that minimizes pedestrian and vehicle conflict and provides for the safe loading of merchandise and vehicle access to and from the traffic lanes to the loading area, preferably without backing movements.

171.07 SPECIFIC REQUIREMENTS FOR RELATED AREAS.

1. Construction Office.

A. Construction Offices and Related Structures.

(1) Zoning.

a. The use and structure are allowed in any zoning district. All requirements such as, but not limited to, setbacks, landscaping, parking, etc. are required to be complied with.

(2) Maximum Duration.

a. Twenty-four months.

(3) Amount.

a. Limited to one per property and located entirely within the property boundaries.

2. Special Event.

A. Zoning.

(1) The use is allowed in any zoning district.

(2) Events occurring in an R-1, R-2, or R-3 District shall occur between 7:00 a.m. to 10:00 p.m. except with the approval of the Police Chief; all other zones as determined by the Zoning Administrator.

B. Maximum Duration.

(1) Four consecutive days, not to exceed four events in a 12-month period.

3. Seasonal Related.

A. Retail Sales of Christmas Trees and Pumpkins.

(1) Zoning.

a. The use is allowed in any zoning district.

(2) Maximum Duration.

a. Forty calendar days prior to December 25 for Christmas tree sales; October 1 through November 1 for pumpkin sales.

B. Agricultural Produce Stands.

(1) Zoning.

a. The use is allowed in any zoning district.

(2) Termination.

a. Stands and displays shall be removed when not used for a period of 30 consecutive days.

C. Retail Sales of Landscape Nursery Materials.

(1) Zoning.

a. The use is allowed in the CC, UC, and LI Zoning Districts.

(2) Termination.

a. Stands and displays shall be removed when not used for a period of 30 consecutive days.

4. Other structures or uses determined to be consistent with the intent of this subsection, with the approval of the Zoning Administrator.

171.08 CONDITIONS OF APPROVAL. The Zoning Administrator may impose such conditions on a Temporary Use Permit as is necessary to meet the purposes of this section and protect the public health, safety, and welfare and adjacent uses.

171.09 FEES. The application fee for a Temporary Use Permit shall be in the amount as established, from time to time, by resolution of the Council, payable each year of operation.

171.10 VIOLATIONS AND PENALTIES. The operation of a temporary use is a privilege allowed by this section. Failure to maintain a temporary use in compliance with the conditions of approval and the regulations of this section shall constitute a nuisance and may be punished as set forth in Chapter 50. A written notice of a violation of the Temporary Use Permit shall be sent to the operator of the temporary use and the property owner, if different than the operator, and the operator shall have a maximum of five days, as determined by the Zoning Administrator, to bring the site into compliance. If the operator fails to correct the violation in the prescribed time, the City may revoke the Temporary Use Permit and issue a cease-and-desist order for the temporary use. There shall also be a one-year moratorium from that date on the issuance of any other Temporary Use Permits on the property and a one-year probationary period for the second year following the violation. During the probationary period, if the operator of a temporary use fails to maintain the premises and the use in conformance with the conditions of approval and this Code, after the notification procedures noted above, the City may revoke the Temporary Use Permit and no other Temporary Use Permits shall be issued on the property for a period of two years.

[The next page is 1619]

CHAPTER 172

ZONING CODE - SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

172.01 Purpose
172.02 Mobile Home Parks
172.03 Commercial Uses
172.04 Performance Standards for Industrial Uses
172.05 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts
172.06 Accessory Uses
172.07 Accessory Structures
172.08 Outdoor Storage
172.09 Setback Adjustments
172.10 Height Exceptions
172.11 Small Wind Innovation Zone Ordinance
172.12 Fence Regulations
172.13 Outdoor Lighting
172.14 Building Façade
172.15 Parkland Dedication

172.01 PURPOSE. The Supplemental Site Development Regulations recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this Zoning Code and provide for specific areas of exception.

172.02 MOBILE HOME PARKS. Mobile Home Parks in the MH District. Mobile home parks are permitted in the MH District as conditional uses, subject to approval by the Board of Adjustment. Following the effective date of this Zoning Code, no mobile home shall be located outside of a mobile home park. A mobile home park is subject to the approval of a Special Use Permit and compliance with the following regulations:

1. Certification. A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection, and any other applicable requirements shall be required of all mobile home parks.

2. Minimum and Maximum Area. A mobile home park shall be considered to be one zoned lot. The minimum contiguous area of a mobile home park shall be 100,000 square feet.

3. Density Requirements.

   A. The maximum gross density of a mobile home park shall be 10 units per acre.

   B. The minimum size of an individual mobile home space shall be 3,500 square feet for single-wide mobile home units and 5,000 square feet for double-wide mobile home units.

   C. Each mobile home space shall have a width of at least 40 feet wide and a length of at least 75 feet.

4. Site Development Standards.

   A. Setbacks. Each mobile home park shall have a minimum perimeter setback of 35 feet from adjacent nonresidential uses and 50 feet from adjacent residential uses. No space for a dwelling unit or any other structure shall be permitted in the required setback.

   B. Setback Landscaping. All area contained within the required setbacks, except sidewalks and private drives, shall be landscaped and screened in

conformance with Chapter 173. Screening shall be provided in conformance with Chapter 173 for any common property line with another non-residential use.

C. Impervious Coverage. Impervious coverage for a mobile home park shall not exceed 50 percent of the total site area.

D. Open Space. Each mobile home park shall provide a minimum of 400 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.

E. Separation Between Mobile Home Units. The minimum separation between a mobile home unit and attached accessory structure and any other mobile home units or accessory structure shall be 20 feet.

F. Separation and Setbacks for Accessory Buildings. An accessory building on a mobile home space shall maintain a minimum rear and side yard setback of five feet. A minimum distance of 10 feet shall be provided between any mobile home and an unattached accessory building.

5. Street Access and Circulation Requirements.

A. Access to Public Street. Each mobile home park must abut and have access to a dedicated public street with a right-of-way of at least 60 feet. Direct access to a mobile home space from a public street is prohibited.

B. Vehicular Circulation. The mobile home park must provide interior vehicular circulation on a private internal street system. The minimum interior street width shall be 27 feet. The street system shall be continuous and connected with other internal and public streets or shall have a cul-de-sac with a minimum diameter of 90 feet. No such cul-de-sacs may exceed 300 feet in length.

C. Separation between Units and Circulation Areas. The minimum distance between a mobile home unit and any attached accessory structure and the pavement of an internal street or parking area shall be 10 feet.

D. Sidewalks. Each mobile home park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right-of-way. Sidewalk width shall be at least five feet.

E. Street and Sidewalk Standards. All internal streets and sidewalks shall be hard-surfaced. Electric street lighting is required along all internal streets.

F. Parking Requirements. Each mobile home park must provide at least one off-street parking stall for each mobile home space.

6. Tornado Shelters. Underground or other approved tornado shelters shall be provided in the mobile home park. Such shelter or shelters shall be built according to the recommendations of the Civil Defense Authority and be large enough to meet the specific needs of the park and its residents.

7. Utilities.

A. All mobile home parks shall provide individual units and common facilities with an adequate, piped supply of hot and cold water for both drinking and domestic purposes; and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space.

B. Complete sanitary and sewer service shall be provided within each mobile home park in accordance with this Code.

C. Properly spaced and operating fire hydrants shall be provided for proper fire protection within each mobile home park in accordance with this Code.

D. All electric, telephone, gas, and other utility lines shall be installed underground.

8. Financial Responsibility. Each application for a mobile home park shall include a demonstration by the developer of financial capability to complete the project, and a construction schedule.

A. Completion Schedule. Construction must begin on any approved mobile home park within one year of the date of approval by the Planning and Zoning Commission. Such construction shall be completed within two years of approval unless otherwise extended by the Planning and Zoning Commission.

172.03 COMMERCIAL USES.

1. Auto Service, Repair, Equipment Repair, Body Repair, Convenience Stores, and Gas Stations.

A. Where permitted in commercial districts, all repair activities, including oil drainage, lifts, and other equipment, must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to auto repair and body repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-way. Screening is subject to provisions of Chapter 173.

B. Any spray painting must take place within structures designed for that purpose and approved by the Building Official.

C. All gasoline pumps shall be set back at least 15 feet from any right-of-way line.

2. Automobile and Equipment Rental and Sales.

A. All outdoor display areas for rental and sales facilities shall be hard-surfaced.

B. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25 percent of the gross floor area of the building.

3. Convenience Storage. When permitted in the CC and LI Districts, convenience storage facilities shall be subject to the following additional requirements:

A. The minimum size of a convenience storage facility shall be two acres.

B. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.

C. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.

D. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.

E. No storage buildings may open into required front yards.

F. Facilities must maintain landscaped buffer yards of 35 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required by Chapter 173.

172.04 PERFORMANCE STANDARDS FOR INDUSTRIAL USES. The following performance standards apply to all industrial uses permitted within an LI Limited Industrial Zoning District:

1. Physical Appearance. All operations shall be carried on within an enclosed building, except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.

2. Fire Hazard. No operation shall involve the use of highly flammable gases, acids, liquids, or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of the County and the City.

3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts. No operation in the LI District shall generate sound levels in excess of those specified in Table 172.06-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.

4. Sewage and Wastes. No operation shall discharge into a sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

5. Air Contaminants. No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.

6. Odor. The emission of odors determined by the Planning and Zoning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.

7. Gases. No release of noxious or poisonous gases shall be permitted, except as provided in this section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed five parts per million taken at the property line of the operation.

8. Vibration. All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.

9. Glare and Heat. All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.

10. Storage of Chemical Products. If allowed by Special Use Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 200 feet from any Residential, Office, or Commercial Zoning District.

172.05 MAXIMUM PERMITTED SOUND LEVELS ADJACENT TO RESIDENTIAL ZONING DISTRICTS. Table 172.05-01 displays the maximum permitted sound levels that may be generated by uses in the CC, UC, or LI Zoning Districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting American National Standards Institute (ANSI) specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

Table 172.05-01 Maximum Permitted Sound Levels at Residential Boundaries

Originating Zoning District	Time	Maximum One Hour LEQ* (dBa)
CC, UC	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	50
LI	7:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 7:00 a.m.	50

*LEQ (or equivalent continuous sound level) is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accuracy portrays the sound the human ear actually hears.

172.06 ACCESSORY USES.

1. Home-Based Businesses; Home Occupations. Each home-based business shall register with the City, on a form established by the Zoning Administrator. Home-based businesses and home occupations are permitted as an accessory use in residential units subject to the following conditions:

A. External Effects.

(1) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.

(2) No noise, odors, bright lights, electronic interference, storage, or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right-of-way.

(3) A home occupation that is run within a detached accessory building shall be approved by the Board of Adjustment in accordance with these zoning regulations. All "external effects" criteria in Subparagraphs (1), (2), (4), (5), and (6) of this Paragraph A are applicable for the detached accessory building. Signage is not allowed upon the detached accessory building.

(4) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic, or household purposes.

(5) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.

(6) No home occupation shall discharge into any sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

B. Employees. The home occupation shall employ no more than one full-time or part-time employee on-site other than the residents of the dwelling unit.

C. Extent of Use. For all residential zoning districts, a maximum of 30 percent of the floor area of the dwelling may be devoted or used for a home-based business or home occupation, inclusive of any attached garage or detached accessory buildings used for the home occupation.

D. Signage. Signage designating the home occupation shall be consistent with regulations for zoning districts set forth in Chapter 175.

E. Traffic Generation.

(1) Delivery or service by commercial vehicles or trucks over 10 tons gross empty weight is prohibited for any home-based business located on a local street.

F. Nuisance. No home occupation shall be noxious, offensive, or hazardous due to vehicular traffic generation or emission of noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other objectionable emissions that would cause an adverse impact on the neighborhood, as determined by the Zoning Administrator.

2. Accessory Dwelling Units (ADU). Each ADU shall go through the site plan review process to confirm conformity with the Zoning Code. ADUs are a permitted accessory use on all single-family residential lots. The following standards are applied to the ADUs:

A. An ADU shall not exceed 1,000 square feet or 50 percent of the square footage of the single-family residence on the property, whichever is larger.

B. Any manufactured home that is being utilized on a property must meet all standards of the Zoning Code pertaining to ADUs, converted to real property, by being placed on a permanent foundation.

C. If the ADU is intended to be a rental property, it must be registered as a rental property with the City and go through the appropriate inspections as per the Rental Property City Code.

D. If utilities to the ADU can't be provided in their entirety from the existing utilities on the lot with the single-family residence, then a new set of utility connections is required for the ADU.

E. If the ADU is attached or connected to the principal structure or single-family residential dwelling unit on the property, then it is required to have a connecting doorway between the ADU and principal structure that does not go outside either structure.

F. The maximum number of ADUs permitted on any lot is one.

172.07 ACCESSORY STRUCTURES.

1. Accessory structures are enclosed, covered, or walled structures that are customarily incidental and subordinate to the principal use or structure. The accessory buildings and structures include free standing garages, trash enclosures, sheds, play structures, underground shelters, accessory dwelling units (detached), and above-ground and in-ground pools and hot tubs.

2. Standards.

A. Construction. No accessory structure shall be constructed upon a lot until the construction of the principal building has been commenced, and no accessory structure shall be used if the principal building has not completed construction within a two-year period.

B. Setback. Structures shall maintain a minimum distance of five feet from any lot lines, alley lines, and adjoining lots.

(1) Must have a greater front yard setback than the primary structure.

(2) Accessory Dwelling Unit (ADU) structures will conform to the setbacks of the single-family residential dwelling units within their respective zoning district instead of the accessory structure setbacks established in 172.07(2)(b).

C. Height. All structures shall have a maximum height of 25 feet.

D. Zoning. Must comply with all underlying standards set forth in Chapter 168.

E. Exempt Structures.

(1) Unwalled structures under 120 square feet in size and under 15 feet in height.

a. This does not include carports or concrete slabs.

(2) Accessory Dwelling Unit (ADU) structures are exempt from the height maximum of accessory structures and will conform to the height maximum provided for single-family residential dwelling units within their respective zoning district.

172.08 OUTDOOR STORAGE. Outdoor storage is prohibited in all zoning districts, except the LI Limited Industrial zoning district, except as provided in this section.

1. Outdoor storage is permitted where incidental to auto services, equipment repair, and body repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Chapter 173. This provision shall apply to any auto services, equipment repair, or body repair use established after the effective date of this Zoning Code.

172.09 SETBACK ADJUSTMENTS.

1. Allowable Encroachments Into Setback.

A. Architectural projections, including roofs which cover porches, enclosed porches, windowsills, belt courses, cornices, eaves, flues, and chimneys, and ornamental features may project three feet into a required yard.

B. Terraces, patios, and attached features must be set back at least five feet from an adjacent side lot line, 10 feet from the rear lot line, or 20 feet from any street property.

C. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of four and one-half feet into a required rear or interior side yard, provided that they do not obstruct the light and ventilation of adjacent buildings.

D. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than 15 percent of the area of the required front yard, and has a vertical clearance of at least eight feet, six inches.

2. Setback Adjustments.

A. Setbacks on Built-Up Blockfaces. These provisions apply if 40 percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

(1) If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.

(2) If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.

(3) If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.

(4) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

B. Corner Lots. Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

3. Rear Yard Exceptions – Residential Uses. When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than 60 percent of the rear yard required by the zoning district.

4. Double Frontage Lots. Residentially zoned double frontage lots on a major street, and with no access to that street, may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.

5. Satellite Antennas.

A. Antennas with a surface area over six point three square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.

B. Such antennas shall be located no less than 15 feet from the property line of an adjacent property within a residential zoning district.

6. Vision Clearance Triangle. No structure, including a fence, shall be built to a height of more than three feet above the established curb grade on the part of the lot bounded by the street lines of the streets which intersect and a line connecting a point on each of such lines 30 feet from their point of intersection. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection. However, in no case shall there be any interference with the required sight distance as determined by the Department of Engineering.

172.10 HEIGHT EXCEPTIONS. These provisions allow exceptions to the height limit of any zoning district in certain situations.

1. Vertical Projections. Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing and future ordinances. Such structures shall not extend into the approach zones, clear zones, or other restricted air space required for the protection of any public airport.

2. Amateur Radio Towers and FCC Pronouncements.

A. Radio towers, antennas, and other appurtenances operated by licensed amateur radio operators, where and when permitted, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.

B. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Council may grant a Special Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985), codified at C.F.R. Section 97.15(e).

C. Such radio towers shall not be located within any front yard of the primary use.

3. Broadcast Towers. Broadcast towers, when operated by a federally licensed commercial or nonprofit organization, may be built to any height in accordance with existing and future ordinances, subject to the approval of a Conditional Use Permit. This exception does not apply to radio towers, antennas, and other appurtenances operated by licensed amateur radio operators.

4. Small Wind Energy Systems. Small wind energy systems as outlined in Section 172.11.

172.11 SMALL WIND INNOVATION ZONE ORDINANCE. The purpose of this regulation is to promote the safe, effective, and efficient use of small wind energy systems installed to reduce the on-site consumption of utility-supplied electricity.

1. Findings. The City finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of nonrenewable energy sources. Distributed small wind energy systems will help diversify the State's energy portfolio. Small wind energy systems also make the electricity supply market more competitive by promoting customer choice. The State has enacted a number of laws and programs to encourage the use of small-scale renewable energy systems, including net metering, sales tax exemptions, property tax exemptions, production tax credits, and the Small Wind Innovation Zone Program.

2. Permitted Use. Small wind energy systems shall be a permitted use in all zoning classifications where structures of any sort are allowed, subject to certain requirements as set forth below. The City may require the installer of the small wind energy system, or the owner of the property upon which the system will be installed, to obtain a Building Permit for the system, if required by City Code.

A. Tower Height and Setback. The base of the small wind energy system tower shall be set back from all property lines, public rights-of-way, and above-ground public utility lines at a distance no less than 115 percent of the total extended height of the tower. Towers shall be allowed closer to a property line than its total extended height if the abutting property owners grants written permission, provided that the tower installation complies with the other applicable setbacks herein provided. As long as the total extended height meets the setback requirements in this section, there shall be no specific height limitation, except as imposed by Federal Aviation Administration regulations as stated in Section 4.3.

B. Requirement for Engineered Drawings or Approval and Soil Studies. A small wind energy system of greater than 20 kW, or a small wind energy system mounted on a structure other than a freestanding tower, shall not be erected in the City unless the plans and specifications for the system have received the stamped approval of a State registered engineer. In lieu of obtaining the stamped approval of a State registered engineer for each small wind energy system of 20 kW or less mounted on a freestanding tower, a manufacturer may submit its standard plans and specifications for a 20 kW system on a freestanding tower, including its soils study and foundation plans for such system, for a one-time review and stamped approval by a State

registered engineer as suitable for construction in any soil condition that exists in the State. If such one-time stamped approval is obtained, that manufacturer may thereafter construct such small wind energy systems of 20 kW or less in the City, utilizing the approved soils study and foundation plans for the 20 kW small wind energy system, without obtaining and presenting the stamped approval of a State registered engineer for each such installation.

C. Compliance with Federal Aviation Administration Regulations (FAA). No small wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.

D. Safety. Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood may be fastened to the bottom tower section such that it cannot readily be climbed.

E. Sound. Sound produced by the small wind energy system under normal operating conditions, as measured at the property line, shall:

(1) Not produce sound at a level that would constitute a nuisance; and

(2) Comply with any local ordinance regulating the volume of sound as a nuisance, if applicable.

Sound levels, however, may be exceeded during short-term events out of anyone's control, such as utility outages or severe windstorms.

F. Compliance with National Electric Code. Building Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the design and manner of installation conforms to the State *National Electric Code*.

G. Utility Notification. No small wind energy system shall be installed until evidence has been given that the utility company has authorized interconnection of the small wind energy system to its electric distribution or transmission, under an agreement approved by and subject to regulation adopted by the Iowa Utilities Board. Properties not connected to the public utility system shall be exempt from this requirement.

H. Insurance. A person seeking a Building Permit to erect a small wind energy system shall provide evidence, in the form of a Certificate of Insurance satisfactory to the City showing general liability insurance coverage for the installation and operation of the system under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements of a public utility.

I. Abandonment. If a wind turbine is inoperable for six consecutive months, the owner shall be notified that they must, within six months of receiving the notice, restore the small wind energy system to operating condition. If the owner fails to restore the system to operating condition within the six-month time frame, it shall be considered abandoned and the owner shall be required, at the owner's expense, to remove the small wind energy system.

A small wind energy system that has been abandoned may be abated as a public nuisance.

J. Signage. No signs, other than appropriate warning signs or standard manufacturers or installer's identification signage, shall be displayed on a wind generator, tower, building, or other structure associated with a small wind energy system, subject to local sign regulation, if any.

K. Lighting. No illumination of the turbine or tower shall be allowed unless required by the FAA or unless allowed by applicable City ordinance.

172.12 FENCE REGULATIONS.

1. General Requirements

A. Location Restriction. No fence shall be built on any lot or tract outside of the property owner's surveyed lot lines. If a fence is erected along the property lines, the owner installing the fence must ensure there is a permanent means for maintaining both sides of the fence subject to State and local ordinances.

(1) No landscape retaining wall shall be installed within two feet of the lot line of another property that is in excess of 24 inches without first conducting a consultation meeting with the City's stormwater coordinator and the adjoining property owner.

B. Vision Clearance Triangle. No fence permitted or required by this Zoning Code, or other sections of this Code, shall be built within the vision clearance triangle, formed by the adjacent curb lines of two intersecting streets and a line connecting points 30 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility.

C. Facing. The finished surfaces or decorative side of any fence shall face toward adjacent properties and street frontage. If no finished side can be determined, the support side shall face the interior.

D. Prohibited Materials. A fence or wall may not be designed to cause pain or injury to humans or animals. Therefore, the use of spikes, broken glass, barbed wire, electric, razor wire, nails, electrical charge, or other similar materials shall be prohibited.

E. Sidewalk. Fences may not be constructed within two feet of a public sidewalk.

F. Easements. No fence may be allowed to be constructed, built, or located over a public easement, unless otherwise noted in this section or approved by the Zoning Administrator.

G. Overland Flowage Easements.

(1) Fences may encroach into an overland flowage easement providing measures are taken to make certain that the fence does not restrict the water flow, cause siltation buildup, etc.

(2) Permitted fence material includes chain link, wrought iron fencing, picket style fencing that is at least 30 percent open, or other fencing styles that are at least 30 percent open.

(3) Solid fencing shall be elevated a minimum of six inches through the swale part of the easement to allow water flowage.

H. Miscellaneous. Fences which enclose public or institutional parks, playgrounds, or schoolyards in residential areas shall be of open type not exceeding six feet in height except as required for recreational purposes such as baseball backstop when a limited sections of open fence up to 10 feet in height is allowed, where necessary to provide for such backstop or similar purposes.

2. Temporary Construction and Maintenance Fences. Unless otherwise approved by the City or Zoning Administrator, any temporary fences shall be removed if construction ceases for a period of six months or upon the issuance of an Occupancy Permit, including temporary occupancy.

A. Height. The maximum height of a fence for any construction shall be eight feet.

3. Residential Fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions:

A. Height. The maximum height of a fence within a front yard or street side yard setback shall be four feet. The maximum height for any fence outside of a required front yard shall be six feet and is measured from the property grade.

(1) Exception for Street Side Yards. On corner lots, a fence built parallel to the street side yard line, but in complete conformance with all other regulations of this Code based upon sight clearance and set back from the sidewalk for ADA compliance, may have a maximum height of six feet.

B. Materials. Fences shall be constructed of wood, PVC or resin, stone, wrought iron, masonry, or chain link materials only. Wood fences shall utilize standard building lumber only.

C. Location Restrictions. Fences may not be constructed on lots unless a primary building is in place.

4. Nonresidential Fences.

A. Height. The maximum height of a fence for any permitted use in a non-residential district shall be eight feet.

172.13 OUTDOOR LIGHTING.

1. General Requirements

A. Location Restriction.

2. Applicability. Except as described below, all outdoor lighting installed after the date of effect of this chapter shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether

attached to structures, poles, the earth, or any other location, including lighting installed by any third party.

A. Exceptions.

(1) Lighting within public right-of-way or easement for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public right-of-way or easement.

(2) Lighting for public monuments and statues.

(3) Underwater lighting for pools or water features.

(4) Low voltage landscape lighting controlled by an automatic device that is set to turn the lights off at one hour after the site is closed to the public or at a time established by the Zoning Administrator.

(5) Lighting solely for signs. See Chapter 175.

(6) Repairs to existing luminaires not exceeding 50 percent of total installed luminaires.

(7) Temporary lighting.

(8) Lighting for emergency conditions.

(9) Lighting specified or identified in a Conditional Use Permit.

(10) Lighting required by federal or State law.

3. Lighting Control Requirement.

A. Automatic Switching Requirements.

(1) Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting controller, building automation system, or lighting energy management system, all with battery or similar backup power or device.

B. Automatic Lighting Reduction Requirements.

(1) Outdoor lights shall be set to be reduced by at least 30 percent or extinguished by 12:00 a.m.

a. Exceptions. Lighting reductions are not required for any of the following:

i. With the exception of landscape lighting, lighting for residential properties, including multiple residential properties not having common areas.

ii. When the outdoor lighting consists of one luminaire.

iii. Code required lighting for steps, stairs, walkways, and building entrances.

iv. When, in the opinion of the authority, lighting levels must be maintained.

v. Motion activated lighting.

vi. Lighting governed by Special Use Permit in which times of operation are specifically identified.

vii. Businesses that operate on a 24-hour basis.

4. Residential Properties.

A. For residential properties including multiple residential properties not having common areas, all outdoor luminaires shall be fully shielded and shall not exceed the allowed lumen output in Table 172.13-03.

B. Low voltage landscaping lighting shall be aimed away from adjacent properties.

C. Shielding directional flood lighting aimed so that direct glare is not visible from adjacent properties.

D. Exceptions.

(1) Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated.

(2) Open-flame gas lamps.

Table 172.13-01 Purposes of Lighting Zones

Zone	Overview
LZ-0: Limited lighting	Areas where lighting might adversely affect flora and fauna or disturb the character of the area. Lighting may be used for safety and convenience, but it is not necessarily uniform or continuous.
LZ-1: Low ambient lighting	Areas of human activity where the vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience, but it is not necessarily uniform or continuous.
LZ-2: Moderate ambient lighting	Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may typically be used for safety and convenience, but it is not necessarily uniform or continuous.
LZ-3: Moderately high ambient lighting	Areas of human activity where the vision of human residents and users is adapted to moderately high light levels. Lighting is generally desired for safety, security, or convenience and it is often uniform or continuous.
LZ-4: High ambient lighting	Areas of human activity where the vision of human residents and users is adapted to high light levels. Lighting is generally considered necessary for safety, security, or convenience and it is mostly uniform or continuous.

Table 172.13-02 Lighting Zones for Districts	
Zoning District	**Lighting Zone**
R-1, R-2	LZ-1
R-3, MH, LI	LZ-2
CC, UC	LZ-3

Table 172.13-03 Maximum Allowed Luminaire Lumens					
Lighting Application by Maximum Allowed Luminaire Lumens	**LZ-0**	**LZ-1**	**LZ-2**	**LZ-3**	**LZ-4**
Unshielded luminaires at one entry	N/A	420 lumens	630 lumens	630 lumens	630 lumens
Fully shielded luminaire lumens	N/A	630 lumens	1,260 lumens	1,260 lumens	1,260 lumens
Unshielded luminaire excluding main entry	N/A	315 lumens	315 lumens	315 lumens	315 lumens
Landscape lighting	N/A	630 lumens	1,050 lumens	2,100 lumens	2,100 lumens
Shielded directional flood lighting	N/A	630 lumens	1,260 lumens	2,100 lumens	2,100 lumens
Low voltage landscape lighting	N/A	N/A	525 lumens	525 lumens	525 lumens

5. Non-Residential Properties. Non-residential may follow either the Prescriptive Method or the Performance Method listed below.

A. Prescriptive Method.

(1) Total Site Lumen Limit.

a. The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be determined using either the Parking Space Method 172.13-04 or the Hardscape Area Method 172.13-05. Only one method shall be used per permit application, and for sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires.

B. Limits to Off-Site Impacts.

(1) All luminaires shall be rated and installed according to Table 172.13-06.

a. Less than two mounting heights shall be mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

C. Light Shielding for Parking Lot Illumination.

(1) All parking lot lighting shall have no light emitted above 90 degrees.

Table 172.13-04 Allowed Total Initial Luminaire Lumens Per Site for Non-Residential Outdoor Lighting Per Parking Space Method				
LZ-0	**LZ-1**	**LZ-2**	**LZ-3**	**LZ-4**
350 lms/space	490 lms/space	630 lms/space	840 lms/space	1,050 lms/space

Table 172.13-05 Allowed Total Initial Luminaire Lumens Per Site for Non-Residential Outdoor Lighting Hardscape Area Method				
LZ-0	**LZ-1**	**LZ-2**	**LZ-3**	**LZ-4**
0.5 lumens per SF of Hardscape	1.25 lumens per SF of Hardscape	2.5 lumens per SF of Hardscape	5.0 lumens per SF of Hardscape	7.5 lumens per SF of Hardscape

Table 172.13-06 Maximum Allowable Backlight, Uplight, and Glare (B.U.G.) Rating					
	LZ-0	**LZ-1**	**LZ-2**	**LZ-3**	**LZ-4**
Allowable Backlight Rating					
Greater than two mounting heights from property line	B1	B3	B4	B5	B5
One to less than two mounting heights from property line	B1	B2	B3	B4	B4
Zero-point five to one mounting heights from property line	B0	B1	B2	B3	B3
Less than zero-point five mounting height to property line	B0	B0	B0	B1	B2
Allowable Uplight Rating	U0	U1	U2	U3	U4
Allowed percent light emission above 90º for street or area lighting	0%	0%	0%	0%	0%
Allowable Glare Rating	G0	G1	G2	G3	G4
Any luminaire not properly oriented with one to less than two mounting heights to any property line of concern	G0	G0	G1	G1	G2
Any luminaire not properly oriented with zero-point five to less than one mounting height to any property line of concern	G0	G0	G0	G1	G1
Any luminaire not properly oriented with less than zero-point five mounting heights to any property line of concern	G0	G0	G0	G0	G1

6. Performance Method.

A. Total Site Lumen Limit.

(1) The total installed initial luminaire lumens of all lighting systems on the site shall not exceed the allowed total initial site lumens. The allowed total initial site lumens shall be determined using Table 172.13-07. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens of all is calculated as the sum of the initial luminaire lumens for all luminaires.

B. Limits to Off Site Impacts.

(1) All luminaries shall be rated and installed according to 172.13-06 or

(2) The entire outdoor lighting design shall be analyzed using industry standard lighting software including inter-reflections in the following manner:

a. Input data shall describe the lighting system including luminaire locations, mounting heights, aiming directions, and employing photometric data tested in accordance with IES guidelines. Buildings or other physical objects on the site within three object heights of the property line must be included in the calculations.

b. Analysis shall utilize an enclosure comprised of calculation planes with zero reflectance values around the perimeter of the site. The top of the enclosure shall be no less than 33 feet (10 meters) above the tallest luminaire. Calculations shall include total lumens upon the inside surfaces of the box top and vertical sides and maximum vertical illuminance (footcandles or lux) on the sides of the enclosure.

c. The design complies if:

i. The total lumens on the inside surfaces of the virtual enclosure are less than 15 percent of the total site lumen limit; and

ii. The maximum vertical illuminance on any vertical surface is less than the allowed maximum illuminance per Table 172.13-08.

Table 172.13-07 Allowed Total Initial Site Lumens

Lighting Zone	LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
Allowed Lumens Per SF	0.5	1.25	2.5	5.0	7.5
Allowed Base Lumens Per Site	0	3,500	7,000	14,000	21,000

Table 172.13-08 Allowed Total Initial Site Lumens

LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
0.05 FC or 0.5 LUX	0.1 FC or 1.0 LUX	0.3 FC or 3.0 LUX	0.8 FC or 8.0 LUX	1.5 FC or 15.0 LUX

172.14 BUILDING FAÇADE.

1. Applicability. Except as described below, all façade requirements and materials are to be subject to their respective zoning requirements as listed by the zoning district design regulations.

2. Façade Material. All building façade materials that face the primary street will need to be included within the defined groups of façade materials allowed to be used

within each zoning district. The façade material groups are the following within this definitive list:

A. Grade A Materials.

(1) Brick.

(2) Natural stone.

(3) Glass.

(4) Stucco.

(5) Architectural grade precast panels.

B. Grade B Materials.

(1) Wood.

(2) Metal wall panel systems.

(3) Textured concrete panels.

(4) Fiber cement panels and lap siding.

C. Grade C Materials.

(1) Vinyl siding.

(2) Corrugated metal wall panels.

(3) Concrete block.

(4) Smooth tip-up panels.

D. Not Listed Here.

(1) Any material that is being proposed to be used as a material for a proposed development must supply the City with descriptive information on the material, including, but not limited to:

a. The name of the material.

b. Provider of the material.

c. Longevity of material as it will be used.

d. Description of look, color, and accent to the building.

e. Any other information requested by City staff, Planning and Zoning Commission, or Council.

3. Façade Coverage. The percentage of the façade that each material covers will conform to design standards within the respective zoning district and any additional condition listed further within this section.

A. In the UC - Urban Center District.

(1) The primary street facing façade on the first floor of any structure on University Avenue, excluding windows or doorways on that façade, will require a minimum of 75 percent of the material used on that façade must be brick.

a. For corner lots on University Avenue, both the street facing façade on University Avenue and the street facing

façade on the connecting street to University Avenue must meet the UC - Urban Center District primary street facing façade material requirements.

(2) Façades facing the primary street that are not on the first floor of the structure may use Grade A or Grade B materials.

(3) Façades not street facing may use Grade A or Grade B materials for those façades.

B. In the CC - Community Commercial District:

(1) The primary street facing façade will require a minimum of 50 percent of Grade A Materials.

a. For corner lots that exist within the CC - Community Commercial District, both street facing façades must meet the primary street facing façade material minimum requirement.

(2) The remainder of the building on all sides can utilize Grade B and Grade C materials with a maximum of 10 percent of the total of each façade being Grade C materials.

4. The Zoning Administrator will be responsible for the initial determination of the general compliance with these criteria for a proposed development. Through the site plan review process, the Planning and Zoning Commission, and Council will make the final determination on the materials requested and their compliance with this Code section.

172.15 PARKLAND DEDICATION.

1. Applicability. Any developer who seeks to develop or redevelop land for residential purposes within the City shall be required to dedicate public parkland. No new plats or site plans for residential development shall be approved unless and until the provisions of this chapter are complied with. For the purposes of this section, residential development is defined as the combination or redevelopment of existing lots, new multi-family developments, and new mixed-use development.

A. The dedicated public parkland may include waterways and ponds, provided the area of such waterways and ponds is not used to satisfy the amount of public parkland required in Section 172.15(3).

B. Where proposed subdivisions abut undeveloped lands, the dedicated public parkland shall be located adjacent to the subdivision boundaries with the undeveloped land, at the discretion of the Council, to allow the public parkland to be increased in size when the adjacent property develops.

C. The development of private recreational amenity space shall not be used to satisfy parkland dedication requirements.

D. The City reserves the right to not accept land that, in its discretion, is not useable or consistent with City plans or policies.

E. Alternative to Development of Public Parkland. If a developer does not desire to dedicate public parkland required in Section 172.15(3), the developer may make a request to the Council that the developer be allowed to meet the requirements of such section through other arrangements agreeable to the Council and the developer as long as such agreement provides equal value

to the City. Such arrangements shall be made between the Council and the developer in the form of a Development Agreement. The determination of equal value shall be based on the most recent City appraisal study or County.

2. Exceptions. The following shall be exempted from the requirements of this chapter:

A. Alterations or expansion of an existing building where no additional residential units are created and where the use is not changed.

B. The construction of accessory buildings or structures.

C. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same use and the same number of units.

D. Construction of a new single-family home, structure, or building on an existing, platted lot.

E. The installation of a replacement manufactured or mobile home.

F. The construction of any nonresidential building or structure or the installation of a nonresidential manufactured or mobile home.

G. The construction of a residential care facility, assisted living facility, nursing facility, or continuing care facility.

H. Any claim of exemption shall be made no later than the time of application for a preliminary plat approval or a Building Permit, whichever occurs first. Any claim not so made shall be deemed waived.

3. This section shall prescribe the minimum amount of space to be provided in a proposed development for use as a public park. Such space shall be required to be provided for by a developer who seeks to develop land within the City by submitting a plat or site plan for approval.

A. The amount of public parkland required in a proposed development shall be computed as follows:

(1) Residential Occupancy per Living Unit. In determining the anticipated occupancy for the proposed development, it shall be assumed that the following dwellings will accommodate the following number of individuals:

Table 172.15-01 Average Individuals Estimated Per Land Use Unit Type

Land Use Type (Unit)	Individuals Per Residential Living Unit
Dwelling, Single-Unit	2.5 Individuals
Dwelling; Two, Three, or Four Unit; Townhouse,	2.0 Individuals
Dwelling; Apartment or Live-Work Unit	1.5 Individuals
Manufactured or Mobile Home	1.5 Individuals

B. Public Parkland Per Individual. In determining the space required for public parkland in a proposed development, it shall be required that five acres of recreational space be provided for every 1,000 individuals. Since some developments will not house 1,000 individuals, the space requirement is to be applied on a per-individual basis. Therefore, .005 acres of public parkland shall

be provided for each individual proposed to be housed in the new development based on the assumptions contained above.

C. The following is an example of a calculation using the previous sections above for illustration purposes only:

(1) For a multi-family development intended for rental ownership, the following formula would be utilized:

a. If the development would have 125 units, then the calculation based on the information above would be as follows:

i. (number of units) x (1.5 individuals/unit) x (.005 acres/individual)

ii. In this example, the developer would be required to dedicate at least 0.9375 acres of public parkland within the proposed development. 125 Units x 1.5 x .005 = 0.9375 acres.

[The next page is 1645]

CHAPTER 173

ZONING CODE - LANDSCAPING AND SCREENING STANDARDS

173.01 Purpose
173.02 Applicability
173.03 Landscaping Requirements
173.04 Planting Requirements
173.05 Buffer Yard Provisions
173.06 Screening Standards
173.07 Screening Standards of Dumpsters and Recycling Areas
173.08 Landscaping Materials and Installation Standards

173.01 PURPOSE. The Landscaping and Screening Regulations provide guidance on the development of sites within the City by addressing landscaping and screening requirements. They are designed to improve the appearance of the community, buffer potentially incompatible land uses from one another, and conserve the value of properties within the City.

173.02 APPLICABILITY. The provisions of this chapter apply to all new development or redevelopment of land on each lot or site upon application for a Building Permit, except for the following:

1. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss of less than 50 percent of the total value.

2. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.

3. Additions or enlargements of existing uses or structures which increase floor area or impervious coverage area by less than 20 percent. Where such additions or enlargements are 20 percent or greater, these provisions apply only to that portion where the new development occurs.

173.03 LANDSCAPING REQUIREMENTS.

1. Landscaping shall be required adjacent to each street property line and within street yards as set forth in Table 173.05-03 Screened Buffer Yard Requirements.

2. Ground Cover. All areas without buildings, paving, or hard surfaces shall be landscaped with grass or continuous plant beds containing shrubs and flowering perennials.

A. No mow and low maintenance yards may be utilized in all areas except within parking lots, and street rights-of-way.

(1) No mow and low maintenance yards shall:

a. Not contain any noxious weeds outlined in Chapter 317 of the *Code of Iowa*.

b. Have a five-foot buffer of maintained grass with a maintained edge along all property lines and sidewalks.

3. Obstruction of View. Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk, and must maintain the vision clearance triangle.

4. Earth Berm Locations. All earth berm locations shall be reviewed by the Public Works Director to determine how the berms shall relate to drainage and public utilities.

5. Exceptions. A development may continue to comply with the buffer yard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with buffer yard or screening provisions.

6. Supplements to the Official List of Plant Materials. The list of Official List of Plant Materials has been compiled using the latest research data available. Plants other than those listed may be used to fulfill minimum landscaping requirements as approved by the Zoning Administrator. To be considered for approval, a proposed plant material must be submitted for review with the following information or additional information as requested:

A. Common name and scientific name of plant material;

B. Habitat, geographic climate range, and original native region;

C. Growing characteristics, including evergreen or deciduous, height and spread at maturity;

D. Suitability for different landscape uses and applications;

E. Susceptibility to disease and tolerance of environment: heat, drought, pollution stress; and

F. Fruit bearing characteristics which may be hazardous in pedestrian and parking areas.

7. Encouragement of Native Landscaping Materials. The use of suitable native plant materials is encouraged to fulfill landscaping requirements. Native plants, or those plants which occur naturally in this region, have shown greater adaptability to the seasonal and periodic climate changes which occur in this region.

8. Standards for Required Landscaping.

A. Plants shall be from the approved plant lists in Section 173.08. Substitutions will be reviewed by the Zoning Administrator on a case-by-case basis.

B. Plants shall not be from the "Windsor Heights Restricted Tree or Plant List" as defined in said table.

C. All other specifications shall conform with the latest version of the *American Standards for Nursery Stock*, published by the American Association of Nurserymen for that type of tree or shrub at the time of installation.

D. All plant materials shall be installed free of disease and in a manner that ensures the availability of sufficient soil and water to sustain healthy growth.

9. Minimum Spacing of Plant Materials.

A. Spacing of Trees. Spacing consistent with generally accepted species spread dimension at maturity defined by *American Standards for Nursery Stock*, or a minimum of one tree for every 30 feet, whichever is less.

B. Groundcover Turf. Immediate and complete coverage of an area within the season.

C. Groundcover, Creeping. Spacing adequate to provide complete coverage in three years.

D. Groundcover. Maximum spacing upon installation of 18 inches on center, should have immediate and complete coverage of area within the season, and with spacing adequate to provide complete coverage in three years.

10. Supplemental Installation Requirements for Shrubs.

A. Shrubs shall be installed in a manner that promotes ease of maintenance and quality appearance.

B. All shrubs shall be installed in continuous beds or naturalized settings containing a minimum of three inches of organic mulch contained by a properly maintained spade edge or other manufactured edging material as approved by the Zoning Administrator.

C. Shrub installations shall contain groundcovers, native perennials, or seasonal annuals. Other shrub installations without these features will need approval of the Zoning Administrator, upon demonstration of quality design and a maintenance contract or commitment.

11. Use of Inorganic Landscaping Materials.

A. No artificial trees, shrubs, plants, or turf shall be used to fulfill the minimum requirements for landscaping.

B. Inorganic materials, such as stone or decorative pavers, may be used provided that such material does not comprise more than 35 percent of the minimum required landscaped area.

C. Concrete or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for walkways less than five feet in width.

D. Buffer yards may not include any paving, regardless of use.

173.04 PLANTING REQUIREMENTS.

Table 173.04-01 Minimum Amount Plantings Required

Planting requirements	R-1, R-2	R-3, CC, UC, LI
Trees	1 per dwelling unit	1 per 2,000 sq.ft. of pervious area
Shrubs	N/A	5 per 2,000 sq.ft. of pervious area

Table 173.04-02 Minimum Size at Time of Planting

Plant Type	Trunk Minimum	Height Minimum	Other Requirements
Deciduous Overstory Tree	2 inches (Measured 6 inches above root collar)	3.5 feet	N/A
Deciduous Understory Trees	1.5 inches (Measured 6 inches above root collar)	3.5 feet	N/A
Deciduous Scrubs 5 Feet or Greater Mature Height	N/A	3 feet	N/A

Table 173.04-02 Minimum Size at Time of Planting			
Plant Type	**Trunk Minimum**	**Height Minimum**	**Other Requirements**
Deciduous Scrubs 3 Feet to 5 Feet Mature Height	N/A	2 feet	N/A
Deciduous Scrubs 3 Feet or Shorter Mature Height	N/A	15 inches	N/A
Evergreen Trees	N/A	6 feet	N/A
Evergreen Shrubs	N/A	2 feet	N/A
Ground Covers or Perennials	N/A	N/A	Minimum of a 4" container

173.05 BUFFER YARD PROVISIONS. These provisions apply when use is established in a more intensive zoning district (District A) which is adjacent to a less intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a screened buffer yard on their lot or site, as set forth in this section. Buffer yard requirements apply only to those districts indicated in Table 173.05-03. Buffer yards are not required for single-family, two-family, or townhouse use types in the more intensive zoning district.

1. The buffer yard dimensions set forth in Table 173.05-03 apply to zoning districts which share a common lot line or are adjacent but separated by an intervening alley.

2. When a street separates adjacent zoning districts requiring a buffer yard, the size of the buffer yard shall be one-half the required buffer yard set forth in Table 173.05-03.

3. Each required buffer yard must be entirely landscaped and free of paved areas, accessways, storage, or other disturbances.

A. Buffer areas shall follow Section 173.06 Screening Standards.

Table 173.05-03 – Screened Buffer Yard Requirements		
		Less Intensive Adjacent District
		R-1*, R-2*, and R-3
More Intensive District	UC, CC	10 Feet
	LI	20 Feet
*Applies to residential uses only.		

173.06 SCREENING STANDARDS.

1. Application. Screening is required between adjacent zoning districts indicated in Table 173.05-03 when one or more of the following conditions in the more intensive zoning district is directly visible from and faces toward the boundary of the less intensive zoning district.

A. The rear elevation of buildings.

B. Outdoor storage areas or storage tanks, unless otherwise screened.

C. Loading docks, refuse collection points, and other service areas.

D. Machinery or areas housing a manufacturing process.

E. Major on-site traffic circulation areas or truck or trailer parking.

F. Sources of glare, noise, or other environmental effects.

G. Mechanical equipment and utility appurtenances.

2. Opaque Barrier. An opaque barrier shall be provided which visually screens the conditions listed in Subsection 1 from less intensive uses by employing one or more of the following, in any combination, to obtain a solid barrier of at least six feet in height:

A. A solid wood or masonry fence or wall at least six feet in height.

B. A landscaped screen, using a minimum of 50 percent evergreen plant material, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting. (Note: All planting materials shall confirm to the minimum caliper/size requirements set in Table 173.04-02.)

C. A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts.

D. Any combination of these methods that achieves a cumulative height of six feet.

E. Machinery or equipment that raise above the six feet may need additional screening at the Zoning Administrator's discretion.

F. Utility equipment and appurtenances and screenings shall be consistent with the building design, colors, and materials.

3. Location of Screening Wall. A screening wall or fence shall be installed no closer to the less intensive zoning district than one-half the width of the required buffer yard.

4. Effect on Drainage. Screening shall not adversely affect surface water drainage.

173.07 SCREENING STANDARDS OF DUMPSTERS AND RECYCLING AREAS.

1. Application. Screening is required to reduce the visibility of dumpster enclosures and recycling areas in R-3, MH, CC, UC, and LI.

2. Opaque Barrier. A six-foot opaque barrier shall be provided which visually screens the area.

A. A solid wood or masonry fence or wall at least six feet in height.

B. Must enclose the area around at least three sides.

C. Contain a pedestrian entrance.

D. Have an access gate that meets Metro Waste Authority standards.

3. Landscaping. If the area is located within a larger paved area, such as a parking lot, the following applies:

A. A landscape buffer of at least five feet shall be located along all sides of the non-gated sides.

B. One tree shall be provided in the landscape buffer.

C. Ornamental grasses, shrubs, or similar landscape materials shall cover a minimum of 50 percent of the buffer area.

173.08 LANDSCAPING MATERIALS AND INSTALLATION STANDARDS.

1. List of Plant Material. No plant material contained on the Restricted List of Plant Material shall be used to fulfill landscape requirements. This list is provided through the office of the Zoning Administrator. These plants are restricted from use because of problems with disease, maintenance, or suitability.

2. Official List of Plant Materials. All plant material installed in landscaped areas or buffer yards shall be consistent with the Official List of Plant Materials provided below or approved as a substitute by the office of the Zoning Administrator. All plant materials shall conform in size, species, and spacing with this section of the Zoning Code. The following materials are permitted, encouraged, or prohibited, based on categories. See the Iowa Urban Tree Council website for the ash tree replacement list.

3. Delay in Planting. All planting shall be installed prior to occupancy or commencement of a use. If the plantings cannot be installed prior to occupancy or commencement of a use due to seasonal conditions that may reduce survivability, the Zoning Administrator may issue a temporary Certificate of Occupancy and grant a delay of installation until the seasonal calendar dates of June 1 or November 1, whichever occurs first, and the property owner must place in an escrow account, established with the City, an amount which will cover 110 percent of the estimated cost of plants and installation.

Windsor Heights Tree and Plant List		
Partial Listing of Large Shade Trees for Planting on Public and Private Property		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Blackgum	Nyssa sylvatica	
Yellowwood	Cladrastis kentuckea	
Tulip tree	Liriodendron tulipifera	
Bald Cypress	Taxodium distichum	
River Birch	Betula nigra	
Hackberry	Celtis occidentalis	
Honey locust varieties (thornless)	Gleditsia triacanthos var. inermis	72 - 100 ft.
Kentucky Coffee Tree - Male Only	Gymnocladus dioicus	
Ginkgo, Maidenhair Tree - Male Only	Ginkgo biloba	
Oaks	Quercus sp.	
Lindens	Tilia sp.	

Windsor Heights Tree and Plant List		
Partial Listing of Large Shade Trees for Planting on Public and Private Property		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
American Elm (Dutch Elm Disease resistant cultivars)	Ulmus americana cultivars	

Windsor Heights Tree and Plant List		
Evergreens for Planting on Public and Private Property		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Densiformis Yews	Taxus x media 'Densiformis'	
Eastern Red Cedar	Juniperus virginiana	
Norway Spruce	Picea abies	
Blackhills Spruce	Picea glauca densata	
Colorado Blue Spruce	Picea pungens glauca	
Jack Pine	Pinus banksiana	
Ponderosa Pine	Pinus ponderosa	
Swiss Mountain Pine	Pinus mugho mughus	
Eastern White Pine	Pinus strobus	
White Fir	Abies concolor	
Arborvitae	Thuja occidentalis	
Colorado Blue Spruce (Fat Albert)	Picea pungens	

Windsor Heights Restricted Tree and Plant List		
Tree Planting Prohibited on Street Right-of-Way and Not Recommended for Private Property		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Amur Maple	Acer ginnala	
Box Elder	Acer negundo	
Silver Maples	Acer saccharinum	
Norway Maples	Acer platanoides	
Tree of Heaven	Ailanthus altissima	
White Birch*	Betula papyrifera	
Catalpa*	Catalpa species	
Ash	Fraxinus species	
Thorny Honey Locust	Gleditsia tricanthos	
Honeysuckle	Lonicera species	
Mulberry	Morus species	
Pin Oak*	Quercus palustris	
Black Locust	Robinia pseudoacacia	
White Poplar	Populus alba	
Lobardy Poplar	Populus nigra	
Cherries*	Prunus species	

Windsor Heights Restricted Tree and Plant List		
Tree Planting Prohibited on Street Right-of-Way and Not Recommended for Private Property		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Willows*	Salix species	
All evergreen trees*		
All "weeping" plants*		
*Trees bearing fruits and nuts over one foot diameter		
* - denotes allowable for private property		

Windsor Heights Tree and Plant List		
Dense Deciduous Shrub List for Screening		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Large		
Hedge Cotoneaster	Cotoneaster lucida	8-10¢ x 4-5¢
Ninebark	Physocarpus opulifolius 'Diablo'	8-10¢ x 8-10¢
Nanking Cherry	Prunus tomentosa	8-10¢
Preston Lilac	Syringa x prestoniae	
Arrowwood Viburnum	Viburnum dentatum	8¢ x 8¢
European Cranberry Viburnum	Viburnum opulus	8-12¢ x 10-12¢
American Cranberry Bush Viburnum	Viburnum trilobum	10¢ x 8¢
Arborvitae – any species not prone to splitting		
Medium		
Fragrant Sumac	Rhus aromatica	6¢ x 5¢
Alpine Current	Ribes alpinum	5¢ x 8¢
Bridal Wreath Spirea	Spirea x vanhouttei	6¢ x 6¢
Dwarf Korean Lilac	Syringa meyeri palibin	6¢ x 10¢
Compact American Cranberry Viburnum	Viburnum trilobum Compact cv.	6¢ x 6¢
Small		
Dwarf Ninebark	Physocarpus opulifolius nanus	3¢ x 3¢
Potentilla varieties	Potentilla fruiticosa cv.	3¢ x 3¢
Gro-Low Sumac	Rhus aromatica Gro-Low	2 x 4-5¢
Green Mound Alpine Current	Ribes alpinum Green Mound	3-4¢ x 2-3¢
Dwarf Blue Leaf Arctic Willow	Salix purpurea nana	4¢ x 4¢
Spirea varieties	Spirea bumalda cv.	2¢ x 2¢ – 4¢ x 4¢ – varies with cultivar
Japanese Spirea varieties	Spirea japonica cv.	2¢ x 2¢ – 4¢ x 4¢ – varies with cultivar

Windsor Heights Tree and Plant List		
Dense Deciduous Shrub List for Screening		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Large		
Dwarf European Cranberry Bush Viburnum	Viburnum opulus nanum	3¢ x 3¢
Densiformus Yews		
Hardy shrub roses		

Windsor Heights Tree and Plant List		
Evergreen Shrubs		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Chinese Junipers	Juniperus chinensis	
Blue Holly	Ilex x meserveae	
Sea Green Juniper	Juniperus chinensis 'Sea Green'	
Dwarf Creeping Juniper	Juniperus horizontalis	
Cross Spreading Japanese	Taxus cuspidata	
Hicks Yew	Taxus x media 'Hicksii'	
Taunton Yew	Taxus media 'Taunton'	
Densiformus Yews		
Green Velvet Boxwood	Buxus x 'Green Velvet'	
Green Mountain Boxwood	Buxus x 'Green Mountain'	
Rhododendron	Rhododendron "PJM"	

Windsor Heights Tree List		
Small Trees for Under High Wires (with upright branching to avoid pedestrians on sidewalks)		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Robin Hill Serviceberry	Amelanchier x grandiflora 'Robin Hill'	
Amur Maackia	Maackia amurensis	25¢ x 20¢
Adirondack Flowering Crabapple, white	Malus Adirondack	20¢ x 10¢
Centurion Flowering Crab, rose-red	Malus Centurion	20¢ x 12¢
Red Barron Flowering Crab, rose	Malus Red Barron	18¢ x 8¢
Sentinel Flowering Crab, white	Malus Sentinel	20¢ x 12¢
Ivory Silk Japanese Tree Lilac	Syringa reticulata 'Ivory Silk'	20¢ x 15¢

Windsor Heights Tree List		
Small Trees for Under High Wires (where sidewalk clearance is not an issue)		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Shadblow Serviceberry, tree form	Amelanchier canadensis	25¢ x 15¢
Autumn Brilliance Serviceberry	Amelanchier g. Autumn Brilliance	20¢ x 25¢
American Hornbeam	Carpinus caroliniana	25¢ x 20¢
Eastern Redbud	Cercis canadensis	25¢ x 20¢
Pagoda Dogwood	Cornus alternifolia	20¢ x 15¢
Washington Hawthorn	Crataegus phaenopyrum	20¢ x 20¢
Winter King Hawthorn	Crataegus v. Winter King	20¢ x 20¢
Common Witch-hazel	Hamamelis virginiana	12-15¢ x 12¢
American Hophornbeam	Ostrya virginiana	35¢ x 25¢
Cherry - Manchurian cherry	Prunus maackii	25¢ x 25¢
Chanticleer Flowering Pear	Pyrus calleryana ‘Chanticleer’	35¢ x 15¢

Windsor Heights Tree List		
Permitted Disease Resistant Flowering Crabapples (not a comprehensive list)		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Adams Crabapple (red to pink flowers, red persistent fruit)	Malus ‘Adams’	15¢ x 20¢
Baccata ‘Jackii’	Malus baccata ‘Jackii’	20¢ x 20¢
Beverly (white flowers, red fruit)	Malus (crabapple) x. 'Beverly'	20¢ x 20¢
Candied Apple (pink flowers, red persistent fruit,)	Malus hybrida	15¢ x 15¢
Callaway	Malus x ‘Callaway’	20¢ x 20¢
Cardinal	Malus ‘Cardinal’	16¢ x 20¢
David (white flowers, red persistent fruit)	Malus ‘David’	12¢ x 12¢
Donald Wyman (white flowers, red persistent fruit)	Malus ‘Donald Wyman’	20¢ x 24¢
Golden Raindrops (white flowers, yellow persistent fruit)	Malus ‘Schmidtcutleaf’	20¢ x 15¢
Jewelberry (white flowers, red fruit)	Malus ‘Jewelberry’	8¢ x 12¢
Liset (dark red flowers, maroon fruit)	Malus x moerlandsii ‘Liset’	15¢ x 15¢
Louisa (pink flowers, yellow fruit)	Malus ‘Louisa’	15¢ x 15¢

Windsor Heights Tree List		
Permitted Disease Resistant Flowering Crabapples (not a comprehensive list)		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Ormiston Roy (white flowers, amber persistent fruit)	Malus 'Ormiston Roy'	20¢ x 25¢
Pink Princess (pink flowers, deep red fruit)	Malus 'Parrsi'	8¢ x 12¢
Prairifire (rose-red flowers, dark red persistent fruit)	Malus 'Prairifire'	20¢ x 20¢
Professor Sprenger (white flowers, orange-red persistent fruit)	Malus 'Professor Sprenger'	20¢ x 20¢
Robinson (deep pink flowers, red fruit)	Malus 'Robinson'	25¢ x 20¢
Sargent (white flowers, red persistent fruit)	Malus sargentii	8¢ x 12¢
Strawberry Parfait	Malus 'Strawbery Parfait'	18¢ x 22¢
Sugar Tyme (white flowers, red fruit)	Malus 'Sutyzam'	18¢ x 15¢
Zumi Calocarpa (white flowers, red fruit)	Malus x zumi 'Calocarpa'	15¢ x 15¢

Windsor Heights Tree/Plant List		
Plants with Good to Moderate Salt Tolerance		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Deciduous Shrubs		
St. John's Wort	Hypericum prolificum	4¢ x 4¢
Lilacs (Miss Kim)	Syringa pubescens subsp. patula	
Northern Bayberry	Myrica pennsylvanica	9¢ x 6¢
Mock orange, size varies with species	Philadelphus spp. and cvs.	
Cinquefoil, 3¢ x 3¢	Potentilla spp. and cvs.	3¢ x 3¢
Smooth Sumac	Rhus glabra	10¢ x 5¢
Staghorn Sumac	Rhus typhina	24¢ x 12¢
Snowberry	Symphoricarpos albus	3¢ x 3¢
Common Lilac	Syringa vulgaris	12¢x10¢
Arrowwood Viburnum	Viburnum dentatum	6¢ x 6¢
Deciduous Trees		
Common Horsechestnut	Aesculus hippocastanum	
Shadblow Serviceberry	Amelanchier Canadensis	
Northern Catalpa	Catalpa speciosa	
Hackberry	Celtis occidentalis	
Cockspur Hawthorn	Crataegus crus-galli	

Windsor Heights Tree/Plant List		
Plants with Good to Moderate Salt Tolerance		
Common Name	**Botanical or Latin Name**	**Typical Mature Width, Height, and Rate**
Maidenhair or Ginkgo	Ginkgo biloba - Male only	
Honey Locust	Gleditsia tricanthos	
Kentucky Coffee Tree) - Male only	Gymnocladus dioicus	
Cottonwood	Populus deltoides	
Quaking Aspen	Populus tremuloides	
Black Cherry	Prunus serotina	
Choke Cherry	Prunus virginiana	
White Oak	Quercus alba	
Burr Oak	Quercus macrocarpa	
Red Oak	Quercus rubra	
Groundcovers:		
Bugleweed	Ajuga reptans	
Goutweed	Aegopodium podagraria	
Creeping Cotoneaster	Cotoneaster adpressa	
Bearberry Cotoneaster	Cotoneaster dammeri	
Rockspray Cotoneaster	Cotoneaster horizontalis	
Hesse Cotoneaster	Cotoneaster horizontalis ‘Hessei’	
Wintercreeper	Euonymus fortunei cultivars	
English Ivy	Hedera helix	
Plantain Lily	Cultivars Hosta cultivars	
Japanese Garden Juniper	Juniperus chinensis procumbens	
Gro-low sumac	Rhus aromatica ‘Gro-low’	
Periwinkle	Vinca minor	

[The next page is 1661]

CHAPTER 174

ZONING CODE - ACCESS AND PARKING

174.01 Purpose
174.02 General Provisions
174.03 Pedestrian Connectivity
174.04 Schedule of Off-Street Parking Requirements
174.05 Short-Term Bike Parking
174.06 Long-Term Bike Parking
174.07 Parking Facility Location
174.08 Parking for People with Disabilities
174.09 Off-Street Parking Design Standards
174.10 Off-Street Loading
174.11 Parking for Personal Vehicles
174.12 Parking for Recreational Vehicles
174.13 Storage and Parking of Unlicensed Vehicles

174.01 PURPOSE. The Access and Parking Regulations require that developments provide safe, direct, and convenient access for pedestrians, bicycles, automobiles, and loading in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

174.02 GENERAL PROVISIONS.

1. Applicability. Off-street parking shall be provided for any new building constructed, for new uses or conversions of existing buildings, or for enlargements of existing structures.

2. Heavy commercial vehicles, including tractor cab units weighing more than two point five tons gross empty weight, shall not be parked on any lot within the R-1, R-2, R-3, and MH Residential Zoning Districts. Recreational vehicles meeting the definition of heavy commercial vehicles shall only be allowed on any lot within the R-1, R-2, R-3, and MH Residential Zoning Districts if they comply with the special provisions listed below.

3. Exemptions. Any current use existing within the UC Urban Center District before the effective date of this Code is exempt from the off-street parking requirements provided by Section 174.04. Any off-street parking facility constructed in the UC District after the effective date of this Zoning Code must comply with the design standards set forth in this chapter.

174.03 PEDESTRIAN CONNECTIVITY.

1. Sites shall be designed with delineated sidewalks, walkways, and paths to provide continuous circulation throughout the site connecting principal structures, dwelling units, parking areas, parking garages, and other prominent features. Pedestrian connections shall be made between the internal circulation system and the adjacent public sidewalk or trail systems. The site shall be organized so that the buildings frame and reinforce pedestrian circulation between lots.

2. Sites shall be designed to limit the number of pedestrian and motorist conflict points.

3. Sidewalks shall be a minimum of six feet unless specifically exempted by the Administrative Official or other Administrative Official.

4. Developments shall have pedestrian amenities such as walkways, benches, etc.

5. Enhanced pedestrian elements at the sidewalk level including decorative lighting, seating, or low sitting walls, planters, enhanced paving techniques, etc., shall be incorporated into the theme.

6. To promote a higher level of pedestrian awareness, the use of alternate paving materials to designate pedestrian traffic areas from vehicular use areas and travel lanes is required. Mere cuts in the concrete will not be sufficient to meet the requirements of this section.

174.04 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS. Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 174.04-01.

1. When a computation of required parking results in a fraction of zero point five or greater, the requirement should be rounded up to the next whole number.

2. Unless otherwise indicated, parking requirements are based on gross floor area. Gross floor areas for the purpose of this calculation exclude any interior space used for the parking or loading of vehicles.

3. When parking requirements are computed on the basis of capacity, capacity shall be determined by the Building Code in effect for the City at the time the use is established.

4. For sites with more than one use, the parking requirement shall be the sum of spaces required for each use, except as provided below.

5. The Board of Adjustment may authorize an adjustment in the total parking requirement for separate uses located on the same site or for separate uses located on adjoining sites and served by the same parking facility. The Board of Adjustment shall consider at least the following criteria in determining approval of such an adjustment:

A. The characteristics and time of operation of each use, and differences in projected peak parking demand.

B. Potential reduction in total expected vehicle movements afforded by multiple uses of the parking facilities.

C. Functional design of the development and its parking facilities.

D. Evidence of a written agreement that provides for the joint use of parking facilities within 300 feet of the use.

Table 174.04-01 Minimum Off-Street Parking Requirements

Use	Required Spaces
Administration	1 space for 1,000 square feet
Agricultural Sales or Service	1 space per 5,000 square feet
Landfills (All types)	No requirement
Auto Rental and Sales	1 space per 1,000 square feet
Auto Service	1 space per 500 square feet
Body Repair	1 space per 500 square feet
Broadcasting Tower	No requirement
Business Support	1 space per 500 square feet
Campground	1 space per camping unit
Cemetery	No requirement
Civic Organizations	1 space per 1,000 square feet

Table 174.04-01 Minimum Off-Street Parking Requirements	
Use	**Required Spaces**
Bars	1 space per 350 square feet
Commercial Recreation (All types)	1 space per 500 square feet
Communications Services	1 space per 500 square feet
Community Garden	No requirement
Construction Sales	1 space per 2,000 square feet
Construction Yards	1 space per 5,000 square feet
Consumer Services	1 space per 500 square feet
In-Patient Services	1 space for 1,000 square feet
Convenience Storage	1 space per 20 storage units
Crop Production	No requirement
Cultural Services	1 space per 2,000 square feet
Custom Manufacturing	1 space per 2,000 square feet
Daycare Services	1 space per 500 square feet
Two Unit Residential	1 space per dwelling unit
Equipment Sales or Service	1 space per 1,000 square feet
Food Sales (all types)	1 space per 200 square feet
Financial Services	1 space per 1,000 square feet
Gaming Facilities	1 space per 500 square feet
General Industry	1 space per 2,000 square feet or as approved by the Zoning Administrator
General Offices	1 space per 500 square feet
General Retail Services (All types)	1 space per 500 square feet
Group Care Facility	1 space per 1,000 square feet
Group Home	1 space per 1,000 square feet
Group Residential	1 space for each two residents
Guidance Services	1 space per 1,000 square feet
Health Care (Small-scale)	1 space per 1.5 beds
Health Care (Large-scale)	1 space per 1.5 beds
Heavy Industry	1 space per 5,000 square feet or as approved by the Zoning Administrator
Horticulture	No requirement
Library, Museum, or Cultural Facility	1 space per 1,000 square feet
Light Industry	1 space per 1,000 square feet or as approved by the Zoning Administrator
Liquor Sales	1 space per 500 square feet
Lodging	1 space per sleeping room
Maintenance Facilities	1 space per 1,000 square feet
Medical Offices	1 space per 500 square feet
Mobile Home Residential	1 space per dwelling unit
Multi-Family Residential	1 space per dwelling unit
Non-Putrescible Landfill	No requirement
Pawn Shop	1 space per 500 square feet
Personal Improvement Services	1 space per 250 square feet
Personal Services	1 space per 500 square feet
Pet Services	1 space per 1,000 square feet
Railroad Facilities	1 space per 1,000 square feet
Resource Extraction	1 space per 5,000 square feet

Table 174.04-01 Minimum Off-Street Parking Requirements	
Use	**Required Spaces**
Restaurants (Drive-In)	1 space per 350 square feet
Restaurants (General)	1 space per 350 square feet
Salvage Services	1 space per 2,000 square feet or as approved by the Zoning Administrator
Single-Family Residential	2 spaces per dwelling unit
Commercial breeders	1 space per 1000 square feet
Surplus Sales	1 space per 2,000 square feet
Trade Services	1 space per 500 square feet
Veterinary Services	1 space per 500 square feet
Warehousing	1 space per 5,000 square feet or as approved by the Zoning Administrator

174.05 SHORT-TERM BIKE PARKING.

1. Minimum Number of Required Off-Street Parking Spaces for Bicycles.

   A. Refer to Table 174.06-01 for minimum space requirements.

2. Dimensions.

   A. Each rack must be at least three feet apart from each other and six feet long. There shall be an unimpeded rectangle of space centered on the bike rack that is six feet long and three feet wide.

3. Location of Bicycle Parking Areas.

   A. Bicycle parking shall be placed within 100 feet of and clearly visible from the main entrance.

   B. The Zoning Administrator may approve an alternate location provided that the location meets the intent of this section.

4. Design and Construction of Bicycle Parking Areas.

   A. All bicycle parking areas shall be hard surfaced with asphalt, concrete, pervious pavement, pavers, or other material to provide a durable, dust-free surface.

   B. All bike racks shall be:

      (1) Securely anchored;

      (2) Able to support the bicycle frame in at least two places; and

      (3) Allow the locking of a bicycle frame and at least one wheel with a U-lock.

   C. All short-term bicycle racks shall either be an “inverted u” or “post and ring” style.

   D. All bicycle parking spaces shall be constructed in accordance with the latest version of the *Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines*.

5. Minimum Number of Required Off-Street Parking Spaces for Bicycles.

   A. Refer to Table 174.06-01 for minimum requirements.

174.06 LONG-TERM BIKE PARKING.

1. Minimum Number of Required Off-Street Parking Spaces for Bicycles.

   A. Refer to Table 174.06-01 for minimum space requirements.

2. Dimensions.

   A. The total space of the bike room shall be at least 18 square feet for each required bike space with a minimum overall size of 100 square feet.

3. Location of Bicycle Parking Areas.

   A. Bicycle parking shall be located on the same site and within the building, or within 300 feet of the main entrance.

   B. The Zoning Administrator may approve an alternate location provided that the location meets the intent of this section.

4. Design and Construction of Bicycle Parking Areas.

   A. All bicycle parking areas shall be hard surfaced with asphalt, concrete, pervious pavement, pavers, or other material to provide a durable, dust-free surface.

   B. All bicycle parking areas shall be within a building or provided with a permanent cover including, but not limited to, roof overhangs, awnings, or bicycle storage lockers.

   C. All bike racks shall be:

      (1) Securely anchored;

      (2) Able to support the bicycle frame in at least two places; and

      (3) Allow the locking of a bicycle frame and at least one wheel with a U-lock.

   D. Long-term bicycle racks shall be:

      (1) "Inverted u" or "post and ring" style; or

      (2) "Staggered wheel," "well-secure," "vertical," or "two-tier" style with no more than 75 percent of total long-term bicycle racks being this type.

   E. All bicycle parking spaces shall be constructed in accordance with the latest version of the *Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines*.

5. Minimum Number of Required Off-Street Parking Spaces for Bicycles.

A. Refer to Table 174.06-01 for minimum requirements.

Table 174.06-01 Minimum Bicycle Parking Requirements		
Use Type	**Short Term Spaces Required**	**Long-Term Spaces**
Agricultural Use Types	None required	None required
Residential Use Types	1 per 4 dwelling units	1 per 10 dwelling units
Commercial Use Types	1 per 4,000sq.ft.	1 per 10,000sq.ft.
Civic Use Types	1 per 4,000sq.ft.	1 per 10,000sq.ft.
Office Use Types	1 per 4,000sq.ft.	1 per 10,000sq.ft.
Industrial Use Types	None required	1 per 20,000sq.ft.

174.07 PARKING FACILITY LOCATION.

1. Residential Parking.

A. Off-street parking for residential one or two-family uses shall be located on the same lot or site as the use.

(1) Restriction. Off-street parking shall not be located in the required front yard setback.

(2) Continuous. The parking stalls shall be continuous with the improved drive.

B. Off-street parking areas for multi-family residential uses shall be at least six feet from any residential building and shall not be located within a required front yard.

174.08 PARKING FOR PEOPLE WITH DISABILITIES.

1. Dimensions.

A. All parking spaces shall follow Table 174.08-01 Minimum Parking Lot Design Requirements.

2. Pavement and Drainage.

A. Off-street parking facilities shall be hard-surfaced and maintained with materials sufficient to prevent mud, dust, or loose material. Acceptable hard surface materials shall include concrete, asphalt, brick, or concrete pavers.

(1) Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties or public rights-of-way.

3. Areas where parking lots or drive lanes are visible from the public street shall provide a significant level of screening through the use of any of the following:

A. Earthen berms.

B. Three feet or higher in conjunction with vegetation.

C. Landscaped walls.

D. Walls constructed for the retainment of soil which are greater than four feet in height shall be designed by an individual knowledgeable and certified in structural engineering.

E. Walls may be brick, individual decorative modular wall stone, natural stacked wall, or filed stone. Walls composed of landscape timbers or other wood products are not desired due to the deterioration potential of the material. Wood walls may be used, with approval by the Administrative Official or Planning and Zoning Commission and Council, in areas where views of the wall are minimal.

F. Plants shall be at least every 10 feet along all types of walls to soften the visual impact, visually break up long expanses of the wall, and to visually anchor it to the site. Accessory plant screening shall be of evergreen materials.

G. Perimeter masonry screen walls are required accessory plants at least every 10 feet. Where possible, landscaping shall be provided within a minimum four feet wide planting bed and include trees, shrubs, or groundcovers. Landscaping shall coordinate with the streetscape landscaping. Landscaping shall be kept in a neat and orderly manner.

4. Landscape and Screening Requirements. Unless otherwise noted, each unenclosed parking facility of over 3,000 square feet shall comply with the following regulations:

A. Each unenclosed parking facility shall provide a minimum landscaped buffer of 10 feet along any street property line.

B. Each parking facility that abuts a residential district shall provide a 10-foot landscaped buffer along its common property line with the residential district.

C. Any parking facility which abuts property in a residential district shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Zoning Administrator.

D. All off-street parking areas shall include at least one required landscape island for every 12 required parking spaces.

(1) Each required landscape island shall measure a minimum of 190 square feet in area.

(2) Each required island shall contain a minimum of one deciduous shade tree or one deciduous ornamental tree.

a. At least 10 percent of the island's land area shall have plant material other than sod or grass installed, not including the minimum required tree.

b. The remainder of the landscape pods and islands shall be sodded or mulched. If mulched, mulch shall be replenished annually; volcano mulching around trees is not permissible. Pea gravel and lava rocks will not be allowed.

(3) Parking islands should be located at the end of parking bays so as to define vehicular and pedestrian traffic patterns.

(4) The Zoning Administrator may approve a design where landscape islands are aggregated into one or more larger landscape islands.

E. Interior landscaping shall be credited toward the satisfaction of overall landscaping requirements set forth in Chapter 173.

5. Entrances and Exits.

A. Adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential areas.

B. Parking facilities other than driveways for single-family, two-family, or mobile home residential uses must permit vehicles to enter streets in a forward position.

C. Shared driveways between abutting properties are encouraged, provided that an access easement exists between all property owners.

6. Lighting. Lighting is required for all parking lots.

A. Lighting used to illuminate any off-street parking area shall be arranged to direct light away from residential uses and the right-of-way.

7. Maintenance. All parking facilities shall be maintained to ensure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, carts, and litter; maintaining parking surfaces in sound condition; maintaining aisle lines and the painted surfaces of signs; and providing proper care of landscaped areas.

8. Adjustment. For uses subject to Conditional Use Permit approval, the Board of Adjustment may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses in a manner equal to or greater than the minimum requirements of this chapter.

Table 174.08-01 Minimum Parking Lot Design Requirements

Space Angle	Space Width	Parking Row Depth	Curb Width	Drive Aisle Width: One-Way	Drive Aisle Width: Two Way
Parallel (0°)	8’	8’	22’	12’	22’
45°	8’6”	18’	12’9”	15’	24’
60°	9’	19’	10’5”	18’	24’
Perpendicular(90°)	9’	18’	9’	24’	24’

174.09 OFF-STREET PARKING DESIGN STANDARDS.

1. Loading Requirement. Any use which involves the receipt or distribution of freight, merchandise, supplies, vehicles, or equipment as part of its typical operation shall provide and maintain adequate space for off-street loading and circulation. Loading areas shall be designed to avoid undue interference with the public use of streets and sidewalks. Schedule of Loading Spaces. Loading spaces for each use

requiring them shall be provided in accord with the minimum requirements set forth in Table 174.09-01 Off-Street Loading Requirements Structures.

Table 174.09-01 Off-Street Loading Requirements Structures	
Gross Floor Area of Use (square feet)	**Number of Required Loading Spaces**
5,000 or less	None
5,001 – 25,000	1
25,001 – 75,000	2
Larger than 75,000	3

2. Design Standards.

A. Each loading space shall be at least 10 feet wide by 50 feet long, with a vertical clearance of at least 14 feet.

B. Paving of loading spaces and access areas shall be permanent, durable, and free of dust.

C. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this chapter.

174.10 OFF-STREET LOADING. Each off-street parking facility shall provide the number of parking spaces set forth in Table 174.10-01 designed and designated for use by people with disabilities. Design criteria and dimensions are set forth in the Off-Street Parking Design Standards and the requirements of the *Americans with Disabilities Act*. Please refer to Sections 208 and 502 of the 2010 *ADA Standards for Accessible Design* for parking spaces and 209 and 503 of the 2010 *ADA Standards for Accessible Design* for passenger loading zones.

1. Location. In parking lots or garages, accessible parking spaces must be located on the shortest accessible route to the accessible entrance. An accessible route is the path a person with a disability takes to enter and move through a building or facility.

2. Access Aisles. Accessible parking spaces must have access to aisles. Access aisles provide a designated area for people who use wheelchairs or other mobility devices to get in and out of their car or van. Mobility devices allow people with disabilities to move about independently. They include walkers, canes, crutches, braces, manual or power wheelchairs, Segways, and electric scooters. Access aisles shall be:

A. Marked.

B. The same length as the space.

C. Level with the parking space.

3. Van Accessible.

A. The first space and at least one out of every six parking spaces shall be van accessible.

(1) Van accessible spaces (Option 1):

a. Be at least 132 inches wide.

b. Have an access aisle at least 60 inches wide.

c. Have no more than a 1.48 (2.08 percent) slope in all directions.

d. Provide at least 98 inches of vertical clearance (van height) for the parking space, access aisle, and vehicular route.

e. Have a surface that is firm, stable, and slip resistant.

f. Have two signs, the international symbol of accessibility and another stating that the space is van accessible, mounted at least 60 inches above the ground measured to the bottom of the sign.

(2) Van accessible spaces (Option 2):

a. Be at least 96 inches wide.

b. Have an access aisle at least 96 inches wide.

c. Have no more than a 1.48 (2.08 percent) slope in all directions.

d. Provide at least 98 inches of vertical clearance (van height) for the parking space, access aisle, and vehicular route.

e. Have a surface that is firm, stable, and slip resistant.

f. Have two signs, the international symbol of accessibility and another stating that the space is van accessible, mounted at least 60 inches above the ground measured to the bottom of the sign.

4. Car Accessible. All spaces that are not van accessible shall be car accessible as defined below.

A. Be at least 96 inches wide.

B. Have an access aisle at least 60 inches wide.

C. Have no more than a 1.48 (2.08 percent) slope in all directions.

D. Have a surface that is firm, stable, and slip resistant.

E. Have a sign with the international symbol of accessibility on it, mounted at least 60 inches above the ground measured to the bottom of the sign.

Table 174.10-01 Accessible Parking Requirements	
Number of Stalls	**Minimum Number of Required Accessible Spaces**
01-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total parking provided
1,001 and over	20, plus 1 for every 100 stalls over 1,000
*One in every six accessible spaces, but not less than one, shall be served by an access aisle with a minimum width of 96 inches and shall be designated as "Van Accessible."	

174.11 PARKING FOR PERSONAL VEHICLES.

1. Applicability. This section permits the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles include passenger cars; vans; pickup trucks, recreational vehicles, camper shells, toppers, and other similar items intended for attachment to a personal vehicle; trucks, tractor cab units, trailers, and trailers longer than 20 feet, and vehicles over two point five tons gross empty weight shall be defined as heavy commercial vehicles.

2. Location of Parking for Personal Vehicles.

A. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.

B. Parking of personal vehicles is permitted on a paved driveway, outside of an enclosed structure, within the front yard setback, but shall in no case encroach upon the public right-of-way.

C. Parking of personal vehicles may occur in the rear yard setback, outside of an enclosed structure and not on the front yard paved driveway, if such parking meets the following conditions:

(1) The parking space is provided on a surface consisting of asphalt, concrete, brick, or paving stones made of one of the aforementioned substances. Parking is prohibited on gravel, regrind, crushed concrete or asphalt, sand, dirt, grass, or other surfaces not mentioned in this section.

(2) The parking surface shall be no less than the overall length and width of the vehicle parked on the surface.

(3) The parking surface shall not exceed the maximum impervious coverage limit for the lot.

D. In areas not zoned for commercial use, parking of vehicles on private property for the purpose of sale of such vehicles is prohibited.

174.12 PARKING FOR RECREATIONAL VEHICLES.

1. Special Provisions for Recreational Vehicles and Boats. Parking and storage of recreational vehicles and boats within residential districts are subject to the following additional conditions. These conditions are in addition to those requirements for the parking of personal vehicles.

A. Recreational vehicles and boats must be maintained in a clean, well-kept state.

B. Recreational vehicles and boats equipped with liquefied petroleum gas containers must ensure that such containers meet the current standards of the Interstate Commerce Commission, the United States Department of Transportation, or the American Society of Mechanical Engineers. Any valves must be closed at all times that the vehicle is not in preparation for immediate use. Leaks in containers must be repaired immediately.

C. Recreational vehicles may be used as temporary housing by non-paying guests for a maximum of three consecutive days and no more than 14 days total during any calendar year. Cooking in the recreational vehicle is prohibited at all times.

D. Recreational vehicles and boats may not be permanently connected to utility lines.

E. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.

F. Recreational vehicles and boats shall be parked outside of required front yard setbacks.

G. No more than two recreational vehicles or boats may be parked on a single property at any one time. Any recreational vehicle or boat parked on a property must be owned, in whole or in part, by the resident of the property.

174.13 STORAGE AND PARKING OF UNLICENSED VEHICLES.

1. The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed is prohibited on any lot, parcel, or tract of land, or part thereof, situated within the zoning jurisdiction of the City; provided, conformance with the following shall not constitute a violation of this section:

A. The storage of any unlicensed or unregistered motor vehicle in a fully enclosed garage.

B. Parking, storage, or keeping, other than in a fully enclosed garage of any non-operable motor vehicle, is prohibited on any residential zoned lot, parcel or tract of land, or part thereof, situated within the zoning jurisdiction of the City; provided, however, automobiles that are non-operable by reasons of repair work being done thereon may be parked on the residential lot of the owner of said automobile within the City's zoning jurisdiction under the following conditions:

(1) The automobile is owned by the occupier of the premises and registered to them at that address.

(2) The period of said repair work does not exceed 10 days in duration.

(3) Repair work is at all times conducted on a paved driveway.

(4) No more than one automobile in need of repair is situated on the premises at the same time.

[The next page is 1677]

CHAPTER 175

ZONING CODE - SIGN REGULATIONS

175.01 Purpose
175.02 General Permit Procedures
175.03 Exempt Signs
175.04 General Sign and Street Graphics Regulations
175.05 Basic Design Elements for On-Premises Signs
175.06 Other Design Elements
175.07 Use of Compatible Materials
175.08 Sign Area
175.09 Permitted Signs
175.10 Nonconforming Signs

175.01 PURPOSE. The Sign Regulations provide standards for communicating information in the environment of the City and its jurisdiction. The regulations recognize the need to protect public health, safety, and welfare; to maintain the City's attractive appearance; to provide for adequate business identification, advertising, and communication of information; all while protecting and promoting the free speech and expression rights of citizens within the City. Any complaint received regarding a sign that comports with these regulations does not constitute a violation of this Code section.

175.02 GENERAL PERMIT PROCEDURES. Any installation, modification, or expansion of any sign which is not exempt from the provisions of this chapter shall be subject to the following permit procedure.

1. Maintenance of Valid Sign Permit. The owner of a property containing signs requiring a permit under this Zoning Code shall at all times maintain in force a Sign Permit for such property. Sign Permits may be issued for individual zoned lots, tenants, or sign owners. A Sign Permit may be revoked if the sign is not maintained in good condition.

2. Any person who displays a sign in compliance with this Code may substitute the message on that sign without first securing any additional approval, permitting, or notice, provided that any such substitution would not result in the sign becoming noncompliant.

3. Nothing in this Code is intended, or shall be construed, so as to prevent the strengthening or restoration to a safe condition of a nonconforming sign for purposes of public health and safety.

4. Sign Permit Applications. All applications for Sign Permits shall be submitted to the Zoning Administrator in accordance with application specifications established by the chapter and as otherwise determined by the Zoning Administrator.

5. Application Fees. Each application for a Sign Permit shall be accompanied by any applicable fees, which shall be established by the Council, from time to time, by resolution.

6. Permit Expiration. If a permanent sign is not constructed in accordance with an approved permit within six months of the date of approval, such permit shall lapse. Permits on non-permanent signs lapse in accordance with the timeline identified on the permit. After 60 days, permits are required to maintain temporary signs.

7. Assignment of Sign Permits. A current and valid Sign Permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises.

8. Temporary Sign Permit Approval. Temporary signs beyond those exempted under Section 175.03 for purposes of special events, grand openings, or other infrequent occurrences may be approved by the Zoning Administrator subject to the signs not being unsightly, obstructing view, or creating other issues or nuisances to a passerby.

175.03 EXEMPT SIGNS. The following signs are permitted in any zoning district and are exempt from other provisions of this chapter.

1. Temporary Non-Commercial Signs (R-1, R-2, R-3, and MH Zoning Districts).

A. Up to three temporary or non-temporary signs on R-1, R-2, or R-3 zoned lots and parcels that are smaller than four square feet in area and not placed in the public right-of-way. These signs include, with regard to the size requirements previously stated, but are not limited to:

(1) Garage sale signs.

(2) Window signs.

(3) On-site real estate signs pertaining to the sale, rental, or development of the property it resides on.

B. Up to one temporary sign on R-1, R-2, or R-3 zoned lots and parcels that are smaller than eight square feet in area and not placed in the public right-of-way.

2. Temporary Commercial Signs (UC, CC, and LI Zoning Districts).

A. Up to one temporary sign less than eight square feet in area can be located in non-exclusive residential districts (UC, CC, and LI Districts) for the first 250 square feet of interior commercial or general service, retail, or customer service space and one additional sign for each 3,000 square feet thereafter. The interior space must be owned or exclusively owned or exclusively leased by the business. The signs cannot create any disruption or visibility issues. A maximum of five temporary signs for each business or tenant can be exempt from permitting under this provision. Additional temporary signs up to a maximum of 10 may be applied for through a Temporary Sign Permit.

(1) Signs shall not be placed in the public right-of-way.

(2) Temporary commercial wall and window signs must not cover more than eight square feet or 20 percent of the commercial building façade, whichever is the smaller value, and no more than 50 percent of the window sign is displayed in.

3. Other Temporary Signs.

A. Official signs authorized by a government or governmental subdivision, which give traffic, directional, or warning information, or other official information.

B. Neighborhood or subdivision identification signs under 50 square feet.

C. Street numbers or address signs that identify the address of a lot, structure, or establishment.

D. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed, such as window signs.

E. Temporary emergency or special situation signs that the City may approve the construction of that is not specifically defined in this chapter if a valid need is shown to exist by virtue of an emergency or special situation. The duration, location, size, and other conditions regarding the sign shall be established by the City at the time of the emergency or special situation.

4. Signs in Right-Of-Way. Any sign installed or placed on public property or in the City right-of-way shall be subject to confiscation by City staff. In addition to other remedies in the Municipal Code, the City shall have the right to recover from the property owner the full costs or removal and disposal of such sign.

175.04 GENERAL SIGN AND STREET GRAPHICS REGULATIONS.

1. Compliance. Each sign or part of a sign erected within the zoning jurisdiction of the City must comply with the provisions of this chapter and of other relevant provisions of this Code.

2. Resolution of Conflicting Regulations. This chapter is not meant to repeal or interfere with the enforcement of other sections of this Code. In cases of conflicts between Code sections, or State or federal regulations, the more restrictive regulations shall apply, except where State law or the State Constitution preempts municipal law, in which case State law or the State Constitution will govern, or where federal law of the U.S. Constitution preempts State and municipal law, in which case federal law or the U.S. Constitution will govern.

3. Prohibited Signs. The following signs are prohibited in all zoning districts.

A. Any sign which is structurally unsafe, unsafely installed, or otherwise hazardous to physical safety.

B. Any sign that obstructs free ingress to or egress from a fire escape, door, window, or other required access way to or from a building or site.

C. Any sign not maintained in good condition.

D. Any sign that blocks the vision clearance areas or would obstruct a driver's clear line of sight of traffic or pedestrians, or which obscures official signs or signals.

E. Any sign that interferes with the view of, or is confused with, any traffic control sign or device, and any sign that misleads or confuses traffic flow. A sign's position, size, shape, color, and illumination, but not its content, shall be considered when making such a determination.

F. Abandoned signs, which must be removed within six months of the date of abandonment.

G. Electronic changeable copy signs which incorporate in any manner any rolling, flashing, pulsating, rotating, beacons, or moving lights.

H. Any sign nailed, fastened, or affixed to any tree.

I. Any sign that otherwise violates this Sign Code.

J. Any sign displaying any obscene matter, as that term is defined by Chapter 728 of the *Code of Iowa*.

4. Buffer Yards. No sign other than on-premises directional signs shall be placed within any buffer yard required by Chapter 173, except buffer yards adjacent to intervening major streets.

5. Vision-Clearance Triangle. No sign may project into or be placed within a vision-clearance area.

6. Removal of Signs. If a sign owner's business, profession, commodity, service, or other activity or use formerly occupying the site is discontinued, the sign must be removed within 15 days of closure. If the owner does not remove the sign, the City will remove it at the owner's expense.

175.05 BASIC DESIGN ELEMENTS FOR ON-PREMISES SIGNS.

1. Professional Design and Construction. All signs must be designed and constructed by an individual or company pre-approved by the City and familiar with the City's Sign Code. The proposed individual or company shall be designated on the applicant's Sign Permit and approved by the City in advance of sign construction.

2. Wall Signs and Graphics. Wall signs and graphics are subject to the following general regulations.

A. A wall sign shall not extend more than 12 inches from the wall to which it is attached.

B. A wall sign must be parallel to the wall to which it is attached.

C. A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.

D. A wall sign may not extend beyond its building's roofline.

E. A wall sign attached to a building on its front property line may encroach upon public right-of-way by no more than 12 inches. Such a wall sign shall provide a minimum clearance of eight feet, six inches.

F. For the purpose of calculating permitted sign areas pursuant to this chapter, signs painted on the walls of buildings shall be considered wall signs.

G. Where permitted, canopy signs are counted as wall signs when calculating the total permitted sign area.

3. Projecting Signs and Graphics. Projecting signs and graphics are subject to the following general regulations.

A. The maximum projection of any projecting sign shall be three feet.

B. A projecting sign may be no closer than two feet from the vertical plane of the inside curb line.

C. Each projecting sign must maintain at least the following vertical clearances measured from the average ground level below the sign to the lowest point of the sign:

(1) Eight feet, six inches over sidewalks, except that a canopy may reduce its vertical clearance to seven feet, six inches.

(2) Fourteen feet over parking lots.

(3) Eighteen feet over alleys or driveways.

(4) Unless noted above, no projecting sign shall be placed over a roadway.

D. No projecting sign extending three feet from a property line may be located within 22 feet of any other projecting sign extending three feet from a property line.

E. The support structure for projecting signs cannot be visible.

4. Roof Signs. Roof signs are subject to the following regulations:

A. Where permitted, integral roof signs may be used interchangeably with wall signs.

B. Above peak roof signs are prohibited.

175.06 OTHER DESIGN ELEMENTS.

1. Illumination. Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.

2. Marquees and Marquee Signs. Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.

3. Banners.

A. A banner sign projecting from a building may not exceed the wall height of the building.

B. Maximum projection for any banner is three feet with a minimum vertical clearance of eight feet, six inches.

175.07 USE OF COMPATIBLE MATERIALS. All signs, excluding temporary signs, shall be constructed of materials that are similar to those used on the principal building. Such signage shall be dominated with materials of permanency and strength and shall be compatible with other structures and signs in the development.

175.08 SIGN AREA.

1. Maximum Permitted Sign Area. Maximum permitted sign area for a premise is set forth as a numerical limit and is the combined total of all signs on the premise.

2. Sign Area.

A. Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.

B. The area of double-faced signs is calculated on the largest face only.

C. The sign area for ground signs, monument signs, and architectural sign bands is calculated as the area enclosing the extreme limits of the copy only.

D. In the case of individual letters mounted to a wall, the total area in a simple shape such as a rectangle around the letters will be calculated.

3. Height. The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.

4. Setback. The setback of a sign is measured from the property line to the supporting frame, mast, pole, or base of the sign.

5. Building Frontage. Building frontage is measured as the linear dimension of the building line or parallel to a public street, private way, or court. For walls angled out of parallel to a public street, private way, or court a projected parallel line shall be used.

175.09 PERMITTED SIGNS.

Table 175.09-01 Permitted Signs by Type and Zoning Districts							
Sign Types	**R-1**	**R-2**	**R-3**	**MH**	**CC**	**UC**	**LI**
Detached Signs							
Monument	P	P	P	P	P	P	P
Ground	P	P	P	P	P	P	P
Pole	N	N	N	N	N	N	N
Attached Signs							
Awning	N	N	N	P	P	P	P
Banner	N	N	N	N	P	P	P
Building Marker	P	P	P	P	P	P	P
Canopy	N	N	N	N	P	P	P
Marquee	N	N	N	N	P	P	P
Projecting	N	N	N	N	P	N	P
Roof, Integral	N	N	N	N	P	N	P
Wall	P	P	P	P	P	P	P
Window	N	N	N	N	P	P	P
Miscellaneous							
Portable	N	N	N	N	P	P	N
P = Permitted for All Uses; N = Not Permitted							

Table 175.09-02 Auxiliary Design Elements by Zoning District							
Sign Types	**R-1**	**R-2**	**R-3**	**MH**	**CC**	**UC**	**LI**
Illumination							
Indirect	P	P	P	P	P	P	P
Direct	N	N	N	N	N	N	N
Internal	P	P	P	P	P	P	P
Neon	N	N	N	N	P	P	P
Flashing	N	N	N	N	N	N	N
Flame	N	N	N	N	N	N	N
Other							
Electronic Changeable Copy	N	N	N	N	P	P	P
Moving	N	N	N	N	N	N	N
Rotating	N	N	N	N	N	N	N
P = Permitted for All Uses; N = Not Permitted							

Table 175.09-03 Permitted Signs by Maximum Permitted Area and District	
The Maximum Permitted Area for all Signs on a Premises, Excluding Exempt Signs:	
Zoning District	**Maximum Total Square Feet**
R-1, R-2	8
R-3	32
MH	48
CC, UC	150
LI	200

Table 175.09-04 Permitted Signs by Numbers, Dimensions, and Locations				
Zoning District	**R-1; R-2**	**R-3; MH**	**CC; UC**	**LI**
Detached Signs				
Number Permitted Per Premises	1	1	N/A	N/A
Maximum Size* (square feet)	8	32	90	90
Maximum Height (feet) of Structure Above Ground	10	10	10	10
Front Yard Setback (feet)	5	5	10	0
Side Yard Setback (feet)	10	10	5	0
Attached Signs				
Maximum Size* (square feet)	8	32	150	200
*For those uses only permitted a sufficient maximum sign area in Table 175.09-03				

175.10 NONCONFORMING SIGNS.

1. Any permanent sign that was in place and lawfully established on December 21, 1998, shall be considered as a legal nonconforming sign to the extent that such a sign does not comply with the provisions of this chapter. The cover of such sign may be changed from time to time, provided that the sign area shall not be enlarged or reduced beyond the sign area in existence on December 21, 1998.

2. Any nonconforming sign which presently is or becomes structurally damaged or deteriorated or is altered by more than 50 percent of its replacement cost, shall be either removed or altered so as to comply with this chapter.

[The next page is 1689]

CHAPTER 176

ZONING CODE - NONCONFORMING DEVELOPMENT

176.01 Purpose
176.02 Existing Development
176.03 Legal Nonconforming Uses
176.04 Nonconforming Lots
176.05 Nonconforming Structures
176.06 Nonconforming Uses

176.01 PURPOSE. This chapter contains the Nonconforming Development Regulations. The purposes of these regulations are:

1. To allow for reasonable use of legally created lots of record which do not meet current minimum requirements for their respective zoning districts.

2. To provide for reasonable use of legally constructed structures which do not meet current site development regulations for their respective zoning districts.

3. To allow for the reasonable continuation of legally established uses which do not meet current use regulations for their respective zoning districts.

4. To limit the continuation and provide for the gradual replacement of nonconforming uses.

176.02 EXISTING DEVELOPMENT. Any maintenance to any structure or site feature shall not cause the site or building to become non-compliant with the regulations set forth in this chapter. If the site or building is already non-compliant, the change to the building or site proposed by the owner shall not cause them to become more non-compliant. In such instances, improvements shall be completed in a manner which makes the building, site, or related items more substantially compliant with the current provisions of this chapter than was previous to the improvements. Any improvement proposed to modify the size of a building, lot, parking area, etc. shall be submitted for review by the City. If the proposed improvements modify the size of a building or lot by less than 30 percent, it shall be submitted for review by City staff and approved or disapproved by the Administrative Official. The Administrative Official shall have the authority to require such a project be reviewed by the Planning and Zoning Commission and Council if they feel such review is warranted. If the proposed change is in excess of 30 percent in size, it shall be submitted for full review and approval or disapproval by the Planning and Zoning Commission and Council. See Section 170.07 for full site plan review requirements.

176.03 LEGAL NONCONFORMING USES. Any site or building use permitted under a previous zoning district's regulation shall conform to the regulations of this chapter under the current site and building design provisions determined to be most applicable to the non-conforming use by the Administrative Official.

176.04 NONCONFORMING LOTS.

1. Pre-Existing Lots of Record. Nonconforming lots of record existing at the time of the adoption of this Zoning Code shall be exempt, unless otherwise provided, from the minimum lot area and lot width requirements of each zoning district. Such lots may be developed with any use allowed by the regulations for the district and must comply with all other site development regulations set forth by this Zoning Code.

2. Reductions Due to Public Acquisition. If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

176.05 NONCONFORMING STRUCTURES. These regulations apply to buildings and structures which were constructed legally under regulations in effect before the effective date of this Zoning Code.

1. Continuation. A lawful nonconforming structure existing on the effective date of this Zoning Code may be continued, repaired, maintained, or altered, subject to the provisions of this section.

2. Additions or Enlargements to Nonconforming Structures.

A. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:

(1) The enlargement or addition, when considered independently of the existing building, complies with all applicable setbacks, height, off-street parking, and landscaping requirements.

(2) The nonconforming building and impervious surface coverages on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.

3. Moving of Nonconforming Structures. A lawful nonconforming building or structure shall not be moved, in whole or in part, to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

4. Repair of Nonconforming Structures. A lawful nonconforming building damaged by fire, explosion, storm, or other calamity, except flood damages, may be repaired and reconstructed, provided there is no increase in the degree of nonconformity. Repair and reconstruction within the designated floodplain shall be in conformance with floodplain development regulations. Any repairs must be completed in compliance with all applicable building codes and regulations.

5. Applicability of Landscaping and Screening Regulations. A pre-existing structure, building, or development shall be exempt from Chapter 173. However, any expansion of such structure, building, or development or any adjacent new development onto a property that is or becomes vacant on or after the effective date of this Zoning Code shall be subject to Chapter 173.

6. Allowance for Repairs. Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.

7. Damage or Destruction of Structures. Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

176.06 NONCONFORMING USES.

1. Continuation of Nonconforming Uses. Any nonconforming use lawfully existing on the effective date of this Zoning Code may continue, subject to the limitations of this section.

2. Enlargement of Nonconforming Uses. A lawful nonconforming use may not be expanded.

3. Abandonment of Nonconforming Use. If use becomes abandoned or unused for a continuous period of six months, any subsequent use must conform to all use regulations applicable to the property's zoning district.

4. Change of Use. A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal to or less intensive than that normally required for the previous use.

5. Nonconforming Uses and Conditional Use and Special Use Permits. A lawful pre-existing use which would require a Conditional Use or Special Use Permit in its zoning district shall be presumed to have the appropriate permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of permits set forth in this chapter.

[The next page is 1697]

CHAPTER 177

ZONING CODE - ADMINISTRATION AND PROCEDURES

177.01 Purpose
177.02 Site Plan Review Procedure
177.03 Amendment Procedure
177.04 Extension of the Extra-Territorial Jurisdiction

177.01 PURPOSE. The Administration and Procedures provisions establish the methods for implementation of site plan review, rezoning, and amendments to the Zoning Code.

177.02 SITE PLAN REVIEW PROCEDURE.

1. Purpose. The Site Plan Review Procedure provides for special review in addition to plan review required by other sections of this Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for the review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

2. Administration. The Zoning Administrator shall review, evaluate, and act on all site plans submitted pursuant to this procedure. The Planning and Zoning Commission shall review site plans and shall transmit its recommendation to the Council for approval.

3. Uses Requiring Site Plan Review. Select uses as required by Chapter 170.

4. Application Requirements. An application for a site plan review may be filed by the owner of a property or the owner's authorized agent with the Zoning Administrator. Site plan application forms are available in the offices of the Zoning Administrator. The application shall include the criteria listed in Chapter 170.

5. Administrative Action. The Zoning Administrator shall review each site plan and provide a written recommendation to the Planning and Zoning Commission and Council. The Planning and Zoning Commission shall transmit its recommendation to the Council, which will then act on the application.

6. Review and Evaluation.

A. The Planning and Zoning Commission and Council shall review and approve the site plan based on the criteria established in Chapter 170 and conformance with applicable regulations in this Zoning Code and the vision of the comprehensive plan.

B. The Planning and Zoning Commission shall make the following findings before recommending approval of the site plan to the Council:

(1) The proposed development, together with any necessary modifications, is compatible with the criteria established in Chapter 170.

(2) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.

(3) The site plan conforms to this Zoning Code and to the vision of the comprehensive plan.

7. Modification of Site Plan. The Zoning Administrator, Planning and Zoning Commission, and Council may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but are not limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, or aesthetics.

8. Term and Modification of Approval.

A. A site plan approval shall become void one year after the date of approval unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.

B. The Zoning Administrator may approve an application to modify a previously approved site plan if they determine that the modification does not affect findings.

C. The Zoning Administrator may revoke a site plan approval if said official determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

177.03 AMENDMENT PROCEDURE. The amendment procedures describe the methods by which changes may be made in the text of this Zoning Code (text amendment) or the Official Boundaries of Zoning Districts (rezoning).

1. Initiation of Amendments.

A. Text amendments may be initiated by the Planning and Zoning Commission or Council.

B. Rezoning may be initiated by a property owner or authorized agent, the Planning and Zoning Commission, or the Council.

2. Rezoning Application Requirements. An application for a rezoning may be filed with the Zoning Administrator. The application shall include the following information:

A. Name and address of the applicant.

B. Owner, address, and legal description of the property.

C. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.

D. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.

3. Amendment Process.

A. The Planning and Zoning Commission, following not less than four days' notice and publication, shall hold a public hearing on each proposed text or rezoning and shall recommend action to the Council.

B. The Council, after publication and public hearing, shall act on the proposed amendment. A majority vote of those members either elected or appointed to the Council, is required for approval. If the proposed amendment is recommended for disapproval by the Planning and Zoning Commission, a majority vote plus one of the Council shall be required for approval.

C. Protest. If a valid protest petition opposing an amendment is filed with the Clerk by eligible property owners, a majority vote plus one of those members either elected or appointed to the Council is required for approval. A valid protest petition must meet the following criteria:

(1) Submission of the petition in the office of the Clerk within 14 days after the conclusion of the public hearing on the amendment by the Planning and Zoning Commission.

(2) Notarized signatures by at least one of the following:

a. The owner or owners of at least 20 percent of the property proposed for rezoning.

b. The owners of 20 percent of the total area, excluding public rights-of-way and public property, within the zoning jurisdiction of the City and within 200 feet of the proposed rezoning.

4. Required Notice and Publication. Prior to consideration of amending, supplementing, changing, modifying, or repealing this Zoning Code by the governing body, notice of public hearings shall be provided by the following two methods, as determined by the City:

A. Publication. Not less than four days before the date of hearing, the Clerk shall have published in a newspaper published at least once weekly and having a general circulation in the City a notice of the time, place, and subject matter of such hearing.

B. Notification by Mail. At least 10 days prior to the date of hearing, the party initiating the rezoning request shall present the Clerk a certified address list of those persons who own property within 500 feet of the subject site. The Clerk shall mail notice of the time, place, and subject matter of the hearing to such property owners at least 10 days prior to the date of the hearing.

177.04 EXTENSION OF THE EXTRA-TERRITORIAL JURISDICTION. Upon the automatic extension of the two-mile extra-territorial jurisdiction due to annexation, the Council, with the recommendation of the Planning and Zoning Commission, shall zone properties within the newly established jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City and the present use of the land.

[The next page is 1705]

CHAPTER 178

COMPREHENSIVE PLAN

EDITOR'S NOTE			
The Comprehensive Plan for the City of Windsor Heights, adopted February 20, 2017, by Ordinance No. 16-11, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Comprehensive Plan.			
ORDINANCE NO.	**ADOPTED**	**ORDINANCE NO.**	**ADOPTED**
17-04	May 25, 2017		

[The next page is 1711]

CHAPTER 179

BOARD OF ADJUSTMENT

179.01 Organization and Meetings
179.02 Meetings
179.03 Appeals
179.04 Powers
179.05 Exceptions
179.06 Decisions of the Board of Adjustment

179.01 ORGANIZATION AND MEETINGS. The Board of Adjustment, hereafter referred to by the words "Board of Adjustment," is hereby continued. Such Board of Adjustment shall consist of five members appointed by the Council. Terms shall be as provided by State statute. The Council shall have the power to remove any member of the Board of Adjustment for cause upon written charges and after public hearing.

179.02 MEETINGS. The Board of Adjustment shall adopt rules and regulations in accordance with this Zoning Code and the *Code of Iowa*. The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. Such chairman, or in their absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record. The presence of three members shall be necessary to constitute a quorum.

179.03 APPEALS.

1. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Zoning Administrator, as provided in Chapter 414 of the *Code of Iowa*. Such appeal shall be taken within 20 days of the decision by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed is taken from.

2. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may not be granted by the Board of Adjustment, or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.

3. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, or by agent, or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee according to the schedule of fees which is on file in the office of the Clerk and submit all required paperwork and application.

179.04 POWERS. The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Administrator in the enforcement of this chapter.

2. To grant a variation from the terms of this chapter; provided, however, that all variations granted under this clause shall be in harmony with the intent of this chapter and the applicable Section 414 of the *Code of Iowa*. In granting approval or conditional approval of a variance, the Board of Adjustment shall prepare written findings of fact that all of the conditions below apply to the application:

A. Special Circumstances. Special circumstances exist relating to the physical character of the property that are peculiar to the property and that do not apply generally to other properties in the same zoning district. And these circumstances are not of so general or recurrent a nature as to make it practical to provide, in the form of an amendment to this chapter, a general rule to cover them.

B. Practical Difficulties. Because of these special circumstances, the literal application of the provisions of this chapter would, without a variance, result in unnecessary practical difficulties for the applicant, as distinguished from mere inconvenience.

C. Not Resulting from Applicant Action. The special circumstances and either practical difficulties or hardship that are the basis for the variance have not resulted from any act undertaken subsequent to the adoption of this ordinance or any applicable amendment thereto, of any party with a present interest in the property.

D. Reasonable Use and Return. Without the requested variance, the property cannot yield a reasonable return, or cannot be reasonably used consistent with the intent of the zoning district and the use of other properties therein, but the purpose of the variance is not otherwise to increase the return from the property or to confer special privileges not ordinarily enjoyed by other properties in the same district.

E. Not Alter Local Character. The variance will not alter the essential character of the locality or substantially impair public safety or welfare or property values in the area.

F. Minimum Variance Needed. The variance approved is the minimum required to allow reasonable use and enjoyment of the property.

3. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under 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.

4. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

179.05 EXCEPTIONS.

1. To permit the following exceptions to the district regulations set forth in the chapter, provided all exceptions shall be their design, construction, and operation adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safely, and shall not diminish or impair established property values in surrounding areas.

2. To permit erection and use of a building, or the use of premises, or vary the height, yard, or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, which the Board of Adjustment determines is reasonably necessary for the public convenience or welfare.

3. To issue special permits and decide such matters as may be required by other sections of this chapter.

179.06 DECISIONS OF THE BOARD OF ADJUSTMENT.

1. In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determinations as it believes proper, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. The action of the Board of Adjustment shall not become effective until after the resolution of the Board of Adjustment, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution, immediately following the Board of Adjustment's final decision, shall be filed in the office of the Board of Adjustment, and shall be open to public inspection.

2. Every variation and exception granted or denied by the Board of Adjustment shall be supported by a written testimony or evidence submitted in connection therewith. Any taxpayer, or any officer, department, board, or bureau of the City, or 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 the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Adjustment.

[The next page is 1719]

CHAPTER 180

CONDITIONAL USE PERMITS

180.01 Intent
180.02 Conditional Use Permit Required
180.03 Issuance of Conditional Use Permit
180.04 Application of Conditional Use Permits
180.05 Notification
180.06 Standards for Approval
180.07 Burden of Persuasion
180.08 Board of Adjustment Action on Applications
180.09 Expiration of Permits
180.10 Previously Approved Permits
180.11 Effect of Permit on Successors and Assigns
180.12 Amendments and Modifications

180.01 INTENT. Many land use activities, while not inherently inconsistent with other permitted uses in a particular zoning district, may have significant impact on the surrounding area. Conditional Use Permits for such uses allow special conditions to be "attached" to the development to address those impacts. The Conditional Use Permit process provides for flexibility in identifying the special conditions without making the ordinance unreasonably complicated. The objective of the Conditional Use Permit process is to encourage compatibility of the proposed development with the environment, and with existing and future land uses in the area.

180.02 CONDITIONAL USE PERMIT REQUIRED. Those uses which require a Conditional Use Permit are listed in the individual districts, as well as those having the discretion of the Zoning Administrator.

180.03 ISSUANCE OF CONDITIONAL USE PERMIT.

1. A Conditional Use Permit may be issued only after review and approval of the submitted application, including any plans, by the Board of Adjustment. An application and plan shall only be approved upon determination that the development, if completed as proposed, will comply with the provisions of this chapter.

2. The Conditional Use Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, and shall incorporate by reference the approved application and plan. The Permit shall contain any special conditions or requirements lawfully imposed by the Board of Adjustment.

3. All development shall occur strictly in accordance with such approved application and plan.

180.04 APPLICATION OF CONDITIONAL USE PERMITS.

1. The applicant for a Conditional Use Permit must be a person with the legal authority to take action in accordance with the permit. In general, this means that applications should be made by the owners or lessees of the subject property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits, or their agents.

2. The application must be submitted on an approved form and must be complete. An application shall be complete when it contains all the information necessary for the Board of Adjustment to decide whether the development, if completed as proposed, will comply with all of the requirements of this section. Unless the Zoning Administrator informs the applicant in what way the application is incomplete, the application shall

be presumed to be complete. If the application is deemed incomplete, the Zoning Administrator will not schedule the hearing until all required documentation has been submitted.

3. Additional documents needed:

A. Site plan with dimensions of the proposed with dimensions of the proposed building and land.

B. Property owners within 500 feet of the property in reproducible electronic format.

C. A complete legal description of the property shall be provided in reproducible electronic format.

D. Narrative to the Standards for Approval #1-6.

4. To minimize planning costs to the applicant, avoid misunderstandings or misinterpretations, and to ensure compliance with the requirements of this section, a pre-application conference between the applicant and the Zoning Administrator is strongly encouraged.

180.05 NOTIFICATION. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time.

180.06 STANDARDS FOR APPROVAL.

1. The Board of Adjustment shall review the proposed development for conformance to the following Standards of Approval:

A. Compatibility. The proposed buildings or use shall be constructed, arranged, and operated so as to be compatible with the character of the zoning district and immediate vicinity, and not to interfere with the development and use of adjacent property in accordance with the applicable district regulations. The proposed development shall not be unsightly, obnoxious, or offensive in appearance to abutting or nearby properties.

B. Transition. The development shall provide for a suitable transition and, if necessary, buffer between the proposed buildings or use and surrounding properties.

C. Traffic. The development shall provide for adequate ingress and egress, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.

D. Parking and Loading. The development shall provide all off-street parking and loading areas as required by this Code, and adequate service entrances and areas. Appropriate screening shall be provided around parking and service areas to minimize visual impacts, glare from headlights, noise, fumes, or other detrimental impacts.

E. Signs and Lighting. Permitted signage shall be in accordance with the applicable district regulations and shall be compatible with the immediate vicinity. Exterior lighting, if provided, shall be with consideration given to glare, traffic safety, and compatibility with property in the immediate vicinity.

F. Environmental Protection. The development shall be planned and operated in such a manner that will safeguard environmental and visual resources. The development shall not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution, or other undesirable, hazardous, or nuisance conditions, including weeds.

2. The request shall be approved if the Board of Adjustment finds that the proposed development meets all Standards of Approval.

3. The request shall be denied if the Board of Adjustment finds a strong probability that any of the following exist with regards to the proposed development:

A. Not adequately safeguard the health, safety, and general welfare of persons residing or working in adjoining or surrounding property, or

B. Impair an adequate supply, including quality, of light and air to surrounding property, or

C. Unduly increase congestion in the roads, or the hazard from fire, flood, or similar dangers, or

D. Diminish or impair established property values on adjoining or surrounding property, or

E. Not be in accord with the intent, purpose, and spirit of the Zoning Code or Comprehensive Plan.

180.07 BURDEN OF PERSUASION. The burden of persuasion, as to whether the development, if completed as proposed, will comply with the requirements of this and all chapter is at all times on the applicant. The burden of presenting evidence to the Board of Adjustment sufficient enough for it to conclude that the application does not comply with the requirements of this section is upon the person or persons recommending such a conclusion, unless the information presented by the applicant warrants such a conclusion.

180.08 BOARD OF ADJUSTMENT ACTION ON APPLICATIONS. In considering whether to approve an application for a Conditional Use Permit, the Board of Adjustment shall proceed according to the following format:

1. The Board of Adjustment shall establish findings of fact based upon information contained in the application, the staff report, and information gathered at the Board of Adjustment hearings.

2. The Board of Adjustment shall consider such reasonable requirements or conditions to the permit as will ensure the development will satisfy the requirements of this chapter. A vote may be taken on such conditions before consideration of whether the permit should be approved or denied for any of the reasons set forth in Subsections 3 or 4.

3. The Board of Adjustment shall consider whether the application complies with all of the applicable Standards for Approval set forth in 180.06. Separate votes may be taken with respect to each criterion. If the Board of Adjustment concludes that the application fails to meet one or more of the criteria, the application shall be denied.

4. If the Board of Adjustment concludes that all such criteria have been met, the application shall be approved unless it adopts a motion that the application fails to meet any of the approval standard set forth in Section 180.06. Separate votes may be taken with respect to each standard. Any such motion regarding compliance or

noncompliance of the application to the development criteria or Standards for Approval shall specify the supporting reasons for the motion. It shall be presumed the application complies with all criteria and standards not specifically found to be unsatisfied. Without limiting the foregoing, the Board of Adjustment may attach to a permit, conditions it deems necessary to protect the health, safety, and general welfare of the public. All conditions or requirements shall be entered on the permit.

The Board of Adjustment shall not grant a conditional use for any home occupation or home-based business which is otherwise prohibited under this Zoning Code.

180.09 EXPIRATION OF PERMITS.

1. A Conditional Use Permit shall become void one year after its effective date if the applicant has not carried out development or occupancy during that period.

2. The Board of Adjustment may revoke a Conditional Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

180.10 PREVIOUSLY APPROVED PERMITS. Any permit approved under regulations in effect before the effective date of this Zoning Code shall be considered a valid permit, subject to the requirements imposed at the time of its approval.

180.11 EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS. A Conditional Use Permit authorizes the permit holder the use of land or structures in a particular way and subject to certain conditions. As such, it is transferable. However, no person, including successors or assigns of the original permit holder, may make use of the land or structures covered under such permit except in accordance with all terms and requirements of the permit, so long as the permit remains in effect.

180.12 AMENDMENTS AND MODIFICATIONS.

1. Insignificant modifications to the approved permit are permissible upon authorization by the Zoning Administrator. A modification is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to use or occupy the proposed development.

2. Minor modifications to the approved permit are permissible with the approval of the Board of Adjustment. Such permission may be obtained without a formal application, public hearing or payment of fees. A modification is minor if it has no substantial impact on neighboring properties, the general public, or those intended to use or occupy the proposed development.

3. All other requests for modifications to the approved permit will be processed as new applications. New conditions may be imposed by the Board of Adjustment, but the applicant retains the right to reject such new conditions by withdrawing the request for modifications and proceeding under the terms and conditions of the original permit.

4. The permit holder requesting approval of modifications shall submit a written request, including plans as necessary, for such approval to the Administrator, and the request shall specifically identify the modifications. The Administrator shall determine whether the proposed modifications falls within the categories set forth in Subsections 1, 2, and 3.

5. Approval of all modifications must be given in writing.

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[The next page is 1729]

CHAPTER 181

ADMINISTRATION AND ENFORCEMENT

181.01 Building Permits
181.02 Schedule of Fees, Charges, and Expenses
181.03 Complaints Regarding Violations
181.04 Penalties for Violation

181.01 BUILDING PERMITS.

1. Administration and Enforcement. The Zoning Administrator shall administer and enforce this Zoning Code. The Board of Adjustment may direct other person to assist the Zoning Administrator. If the Zoning Administrator finds that any of the provisions of this Zoning Code are being violated, said official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Zoning Code to ensure compliance with or to prevent violation of its provisions.

2. Building Permits Required. Except as provided by the Building Code, no building or other structure regulated by this Zoning Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate permit for each building or structure has first been obtained from the Building Official. No Building Permit shall be issued by the Building Official except in conformity with the provisions of this Zoning Code, unless they received a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this Zoning Code.

3. Application for Building Permit. All applications for Building Permits shall include plans, if applicable, in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Zoning Code. One copy of the plans shall be returned to the applicant by the Administrative Official, after said official has marked such copy either as approved or disapproved and attested to the same by signing such copy. One copy of the plans, similarly marked, shall be retained by the Administrative Official.

4. Certificates of Zoning Compliance for New, Altered, or Nonconforming Uses. No building or other structure regulated by this Zoning Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a Certificate of Zoning Compliance for each building or structure has first been obtained from the Building Official. No Building Permit shall be issued by the Building Official, except in conformity with the provisions of this Zoning Code,

unless said official receives a written order from the Board of Adjustment in the form of an administrative review, or variance as provided by this Zoning Code.

5. Expiration of Building Permit.

A. If the work described in any Building Permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official; and written notice thereof shall be given to the persons affected.

B. If the work described in any Building Permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new Building Permit has been obtained.

C. The expiration date of a Building Permit may be established for a period longer than one year if established at the time that such permit is issued by the City. The Zoning Administrator may, at their discretion, extend the expiration period of the Building Permit.

6. Construction and Use to be As Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance. Building Permits or Certificates of Zoning Compliance issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this Zoning Code, and punishable as provided herein.

181.02 SCHEDULE OF FEES, CHARGES, AND EXPENSES. The Council shall establish by resolution a schedule of fees, charges, and expenses and a collection procedure for Building Permits, Certificates of Zoning Compliance, site plan reviews, appeals, and other matters pertaining to this Zoning Code. The schedule of fees shall be posted in the office of the Clerk and may be altered or amended only by the Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

181.03 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this resolution occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

181.04 PENALTIES FOR VIOLATION.

1. Violation and Penalty. Violation of the provisions of this Zoning Code or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants or variances, shall constitute a municipal infraction, subject to the penalties and alternative relief authorized by this Zoning Code and Section 364.22 of the *Code of Iowa*.

2. Restraining Order. In case any building is built, developed, altered, or otherwise used in violation of this Zoning Code, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City to prevent

such unlawful action; to restrain, correct, or abate such violation; or to prevent any illegal act, conduct, business, or use in or about said premises.

3. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

4. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

[The next page is 1737]

CHAPTER 182

VACANT PROPERTY REGISTRATION

182.01 Purpose
182.02 General
182.03 Interference Prohibited
182.04 Definitions
182.05 Applicability
182.06 Exemptions
182.07 Properties in Foreclosure
182.08 Registration of Vacant Structure
182.09 Required Owner and Authorized Management Agent Information
182.10 Parties Responsible for Compliance
182.11 Registration of Vacant Structure
182.12 Inspection Obligations of Owner, Mortgagee, or Authorized Management Agent
182.13 Maintenance Requirements
182.14 Security Requirements
182.15 Additional Authority as to Maintenance and Security
182.16 Notices
182.17 Service of Notice
182.18 Administrative Hearings
182.19 Nuisances Enforced by Civil Action
182.20 Emergency Actions
182.21 Renovation Agreement
182.22 Civil Actions; Alternative Relief
182.23 Right of Entry

182.01 PURPOSE. It is the intent of the City, through the adoption of this chapter, to establish a mechanism to protect residential and commercial neighborhoods from becoming blighted through the lack of maintenance and security due to vacant properties; to establish a vacant property registration program; to ensure properties are free of exterior code violations; to prevent potential fire hazards prior to occupation and to set forth guidelines for the maintenance of vacant properties.

182.02 GENERAL. The Administrator shall maintain a database of all vacant properties in the City, cause inspections to be made to determine the condition of dwellings, commercial structures, mobile homes, similar dwellings, accessory structures, and premises located within the corporate limits, and may issue notices as provided in this chapter.

182.03 INTERFERENCE PROHIBITED. Interference with, or obstruction of, the City's lawful removal of a violation by the City is prohibited.

182.04 DEFINITIONS. Unless otherwise expressly stated, or the context clearly indicates a different intention, the following terms have the following meanings and shall be so construed wherever they appear in this chapter:

1. "Administrator" means the City Administrator's designated program administrator. The City Administrator's designee shall be the authorized representative for the enforcement of this chapter and for the administration of the division.

2. "Accessible premise" means a property that is physically accessible through a compromised or breached gate, fence, wall, or other barriers, intended to provide physical security to the property, or by the absence of such barrier.

3. "Accessible structure" means a structure or building that is unsecured, compromised, or breached in such a way as to allow access to the interior space by unauthorized persons.

4. "Accessory building" means a structure on the same lot, separate from, and of a nature customarily incidental and subordinate to the principal residential structure that may be used for, but is not limited to, the storage of equipment, materials, vehicles, and other miscellaneous items of the occupants of the primary dwelling units. Trailers,

semi-trailers, tents, motor vehicles, and component parts thereof shall not be considered accessory buildings. A structure which might otherwise be considered an accessory building, but which is connected to the principal residential structure by a breezeway or other extension of the principal residential structure containing a functional roof and floor shall, for the purposes of this chapter, lose its status as an accessory building, become part of the principal residential structure, and shall be subject to all restrictions applicable to a principal residential structure.

5. "Authorized management" agent means a property manager, property management or maintenance company, or similar person or entity responsible for the maintenance of real property as agent of an owner, mortgagee, or other responsible party, or any person appointed by the owners or mortgage holder who has charge, care, or control of a structure or premises. Such person shall be authorized to accept service of communications from the City.

6. "Easement" means that portion of land or property reserved for present or future use by a person or agency other than the owners of the real estate. The easement shall be permitted to be for use under, on, or above said land or property.

7. "Evidence of vacancy" means any condition or circumstance that on its own, or combined with other conditions or circumstances present, would lead a reasonable person to believe that a property is vacant. Such conditions may include, but not are limited to, disconnection of utility services, broken windows or doors, overgrown or dead vegetation, including lawns, shrubbery, and other plantings; accumulation of abandoned personal property, trash or waste; visible lack of maintenance of any building or structure on the property; graffiti on or other defacement of buildings or structures on the property; and any other condition or circumstance reasonably indicating that the premise is not occupied.

8. "Exterior property" means the open space on the premises and on adjoining property under the control of the owners or authorized management agent of such premises.

9. "Extermination" means the control and elimination of insects, rats, or other pests by elimination of harborage places; by removing or making inaccessible materials that serve as food; by poison spraying, fumigation, trapping or by any other approved pest elimination method.

10. "Foreclosure" means the process, either judicial or extra-judicial, invoked by the owner or holder of a mortgage, by which a property placed as security for a real estate loan in which the mortgage holder is notified of a default, the filing of a foreclosure, sold at public or private sale to satisfy the debt of the borrower in the event of a default by the borrower under the terms of the promissory note or mortgage.

11. "Garbage" means animal or vegetable waste resulting from the handling, preparation, cooking, or consumption of food.

12. "Good condition" means no obvious maintenance required with all major components and materials still functional and contributing toward the extended life expectancy of the structures and premises.

13. "Good repair" means fit for human habitation in accordance with all health codes, everything operates as it should, the property is clean and well maintained inside and out, and there is no wasting or neglect of the property, and it is maintained in good condition.

14. "Imminent danger" means a condition which could cause serious or life-threatening injury or death at any time.

15. "Infestation" means the presence of insects, rats, vermin, or other pests within or contiguous to a structure or premises of insects, rodent's vermin or other pests.

16. "Improvements" means, but not be limited to, parking lots, grass, ground covers bushes, shrubs, hedges, or similar plantings, decorative rock or bark, or artificial turf whether shown on an approved site plan or not.

17. "Inoperable" or "unsafe vehicle" or "boat" means any motor vehicle, recreational vehicle, trailer, semitrailer, or boat that meets one or more of the following criteria:

A. Lacks a current registration or any component part, engine, or parts that render it incapable of use or unsafe for its intended use;

B. With a missing, broken, or shattered windshield or any exposed broken glass edges;

C. With a missing fender, door, hood, steering wheel, trunk top, or trunk handle;

D. That has become a habitat of rats, mice, snakes, or other vermin or insects;

E. That is left unattended on jacks, blocks, or elevated in any other way which constitutes a threat to the public health, safety, or welfare;

F. That because of its condition or method of storage constitutes a threat to public health and safety.

18. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old rope, rags, batteries, paper, trash, rubber debris, waste, used lumber or salvaged wood; dismantled or inoperable vehicles, unsafe vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel, or other old or scrap ferrous material; old discarded glass, tin ware, plastic, or old discarded household goods or hardware; cut brush, including dead or decaying plant material, except a contained compost pile or orderly stacked firewood if cut in lengths less than or equal to four feet and stored at least 18 inches above the ground surface.

19. "Mortgagee" means the person or entity that is the owner or holder of a mortgage, deed of trust, or similar instrument encumbering real property as security for a promissory note or other debt.

20. "Mobile home" means any vehicle without motive power and so designed, constructed, or reconstructed as a dwelling unit to permit the vehicle to be used as a place for human habitation by one or more persons. It may also include any such vehicle with motive power not registered as a motor vehicle in this State. A mobile home is factory-built housing built on a chassis. A mobile home may not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations pertaining thereto, whether or not wheels, axles, hitches, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided.

21. "Neglect" means the lack of proper maintenance for a building, structure, or premise.

22. "Owner" means, for the purposes of this chapter, any person, agent, firm, or corporation having legal or equitable interest in the dwelling units; or a recorded interest in the official records of the State or County as holding title to the real estate; or otherwise having control of the real estate or dwelling units, including, but not limited to, the guardian of the estate of any such person, the executor or administrator of the estate of such person who is ordered to take possession or control of the real estate by the court.

23. "Person" means an individual, a corporation, a partnership, or any other group acting as a unit.

24. "Pest elimination" means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible material that serve as the food or water; or by other approved pest elimination methods.

25. "Premises" means a lot, plot, or parcel of land, easement, or public way, including any structure or mobile home thereon.

26. "Secure" means the closing and locking of windows, doors, gates, and other openings of such size that may allow access to enclosed areas of the property or to buildings and structures on the property. Walls and fences surrounding the property, or any portion of the property, shall be maintained in good repair. Broken windows shall be secured by replacing or repairing and reglazing. Boarding of broken windows shall be used only as a temporary corrective measure secured in accordance with the *International Property Maintenance Code*.

27. "Structure" means that which is built or constructed, or a portion thereof.

28. "Vacant property" means any property, including any building or structure thereon, that is not legally occupied.

29. "Workmanlike manner" means repairs, maintenance work, alterations, or installations that are a request, directly or indirectly, pursuant to the enforcement of this chapter which shall be executed and installed in accordance with the manufacturer's instructions and executed in a skilled manner, generally plumb, level, square, in line, undamaged, without marring adjacent work, using compatible materials approved for the use, like in nature and look to remaining material if there is a partial replacement or repair to maintain the structure and premise in good condition.

182.05 APPLICABILITY.

1. This chapter shall apply to vacant properties with residential, accessory, or commercial occupancies or improvements located thereon.

2. This chapter shall also apply to properties that are the subject of a foreclosure action as set out in this chapter.

3. This chapter shall be considered cumulative and not superseding of, or subject to, any other law or provision relating to the same subject but shall rather be an additional remedy available to the City above and beyond any other State, County, or local law or regulation.

182.06 EXEMPTIONS. Property shall be exempt from the registration requirement of this chapter if either of the following conditions exist.

1. The property is not the subject of foreclosure and is listed in the applicable multiple listing services or other substantial competent evidence of actively marketing

and the property has remained vacant for less than 180 days and the outward appearance is being maintained; or

2. The property is under construction, and the contractor has applied for and is covered by valid building permits.

At such time either of the qualifications for exemption ceases to exist, the property shall be subject to the registration requirements of this chapter.

182.07 PROPERTIES IN FORECLOSURE.

1. Any mortgagee who holds a mortgage on real property located within the City shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a notice of default.

A. If a property is found to be vacant or shows evidence of vacancy, as defined in this chapter, any mortgagee who holds a mortgage on the real property shall comply with the registration requirements of this chapter, within 10 days of the inspection.

2. Any mortgagee who files a foreclosure or Notice of Lis Pendens shall comply with the registration requirements of this chapter, withing 10 days of the filing.

3. Any mortgagee who holds a mortgage on real property, which is in default and is the subject of an outstanding notice of default, Notice of Lis Pendens, or foreclosure action as of the date of the adoption of this Code, shall perform an inspection of the property by August 1, 2024. If the property is found to be vacant or shows evidence of vacancy, the mortgagee shall register the property in accordance with this chapter, within 10 days of the inspection.

182.08 REGISTRATION OF VACANT STRUCTURE. Any owner of property located within the City who has vacant structures, or within 10 days of vacating structures, shall register the property as required by this chapter.

182.09 REQUIRED OWNER AND AUTHORIZED MANAGEMENT AGENT INFORMATION.

1. Owners of property subject to vacant property registration in the City who reside in the County or any county contiguous thereto shall provide the City Administrator's designee a physical address, email address, tax identification number, and telephone numbers.

2. Owners of property subject to vacant property registration located in the City who reside outside the County or any contiguous county shall provide the Administrator with their physical address, email address, tax identification number, and telephone numbers and the name, physical addresses, email address, tax identification number, and telephone number of an individual over the age of 18 who shall reside in the County or any county contiguous thereto and who shall be designated as the "authorized management agent" responsible for maintenance of the property and for receiving notice and service of process.

3. The name of insurance carrier, agent, and contact information.

4. The owners of the property shall be required to update the registration information anytime a change in information is made, including, but not limited to,

mailing address, physical address, email information, change in authorized management agent, or sale of the property.

182.10 PARTIES RESPONSIBLE FOR COMPLIANCE.

1. The property owner or authorized management agent, as defined in this chapter, shall comply with all provisions of this chapter, including, but not limited to, maintenance of real property for which they are responsible in accordance with the provisions of this chapter, and in accordance with all other applicable provisions of the City Code.

2. In all instances, the responsibility of a mortgagee to comply with this chapter shall be and remain in effect from the date that the mortgagee gives the owner notice of a default under the terms of the mortgage, or files a Notice of Lis Pendens, whichever first occurs, until such time as the subject property is sold or transferred to a new owner or the original owner is put back in possession of the property.

182.11 REGISTRATION OF VACANT STRUCTURE. For so long as the property remains vacant, or subject to a Notice of Lis Pendens or a foreclosure action, a registration fee shall be due from the owner or authorized management agent, as applicable under the circumstances, each year not later than the fifteenth day of the month following the month in which the original registration was made. The annual registration fee shall be set out in the schedule of fees adopted by the Council for each year it remains registered.

182.12 INSPECTION OBLIGATIONS OF OWNER, MORTGAGEE, OR AUTHORIZED MANAGEMENT AGENT.

1. A property owner or authorized management agent accepting appointment as the agent of the owner, or the mortgagee shall inspect the property not less than monthly to ensure that the property is in compliance with this chapter.

2. If inspection reveals noncompliance:

A. The owner or authorized management agent shall immediately give written notice of the noncompliance to the party responsible for repairs, if not themselves, and

B. Provide the information in writing to the Administrator, and

C. The owner, authorized management agent, or mortgagee, shall have 10 business days to begin the action necessary to bring the property into compliance, and not more than 30 days to complete such action.

3. The Administrator shall cause the property to be inspected to determine if the violation has been abated and the inspection fees shall be billed to the owner in the amount set out in the schedule of fees adopted by the Council.

182.13 MAINTENANCE REQUIREMENTS. All exterior features must be maintained in good repair and in sound condition. Additionally, structures must be resistant to water, rodents, and deterioration from weather. Repairs must be made with materials that match the existing structure.

1. Structure must include an exterior roof in good repair, including any shingles, sheathing, rafters, soffits, and fascia.

2. Structure must have a fascia, soffit (in the area around the roof eaves) and soffit screens.

3. Gable vents or vent opening must be properly screened to prevent access by animals and other pests.

4. Exterior walls must be capable of supporting a normal load.

5. Exterior walls and other surfaces of any structure must be maintained to resist water and deterioration from weather by application of paint or other protective materials.

6. Outermost layer of paint shall not peel or deteriorate to expose underlying layers of paint to the weather.

7. Window glass must be maintained in a weathertight and watertight condition.

8. Window screens must be in good repair capable of providing ventilation.

9. Exterior doors must be weathertight, watertight, in addition to being secure in a position by a locking device in proper working order.

10. Porch of any structure must be safe to use, capable of supporting a normal load, be weathertight, watertight, rodent-proof, insect-proof.

11. Crawl space openings of a foundation wall must be secured against animals and rodents with screen repairs completed in a workmanlike manner according to standards acceptable in the construction industry.

12. Exterior stairs must be capable of supporting the normal load.

13. Handrails must be constructed and maintained to conform to the Building Code.

14. Railings are required for any unenclosed portion of a structure more than three feet above ground level or for any steps containing four or more risers.

15. All railings must be capable of supporting normal load.

16. Accessory structure including garages, storage buildings, buffer walls, fences, etc., must be maintained in good repair and sound structural condition.

17. Windows, doors, and other openings must be in good condition and locked.

18. Required landscaping must be maintained to be in compliance with any approved site plan.

19. The property shall be mowed, kept clear of weeds, volunteer trees, and kept clear of snow as required by this Code.

20. Parking areas, driveways, and sidewalks shall be kept in good condition as required in this Code.

21. The premise shall be kept clear of junk, debris, garbage, graffiti, inoperable, and unlicensed vehicles.

22. The premise shall be kept free of all infestations.

23. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the City Code.

24. All fire suppression systems must be functioning as intended.

25. Other features of the site not specifically listed in this section that, when in poor state of repair, constitute a threat to the public safety or preclude the reasonable enjoyment of adjacent properties.

26. Fallen branches must be removed from the property within 72 hours and dead or diseased trees removed within two weeks of any City notice being provided.

182.14 SECURITY REQUIREMENTS.

1. The owner or authorized management agent shall secure properties subject to this chapter, so they are not accessible to unauthorized persons.

2. Should the City find the structure open and unsecured, the property will be immediately boarded as an emergency with no prior notice.

3. Broken or boarded windows shall be secured with glass by replacement or repair and reglazing.

4. Boarded up, broken doors or other entry points shall be repaired in a workmanlike manner.

182.15 ADDITIONAL AUTHORITY AS TO MAINTENANCE AND SECURITY. The Administrator or their designee shall have authority to require the owner, mortgagee, and property authorized management agent to implement additional maintenance and security measures as may be reasonably required to prevent further decline of the property.

182.16 NOTICES.

1. Notice to abate a violation shall be given prior to City action to abate a violation, except, that in the event of an emergency, such notice as is practical under the circumstances, if any is practical, shall be given; provided, however, that nothing herein shall require notice in an emergency, if impractical. If notice to abate a nuisance is given pursuant to this chapter, said notice shall contain the following information:

A. A description, to the extent possible, of the conditions that constitute the violation;

B. A description of the location of the violation;

C. A statement that the person liable for the presence of the violation must correct the violation within the reasonable time set forth in the notice and in accordance with this chapter; and

D. A statement that upon failure to comply with this chapter within the time set forth in the notice, the person so notified of the violation shall be deemed liable for the nuisance, and that the City may enter onto the real property and cause the conditions which constitute the nuisance to be abated and assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing process, if a hearing is requested, or court action as applicable.

E. If the department elects to follow the administrative hearing procedure set forth in this Code, the notice shall also contain a statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing as set forth in Section 182.18.

F. Notice of costs of abatement shall be given prior to City assessment of such costs. If notice of costs of abatement is given following administrative hearing procedure or emergency action pursuant to this chapter, said notice shall contain the following information:

G. A statement that upon failure to make full payment as directed in the notice within the time set forth in the notice, the City may assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing, if requested.

H. A statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing on costs of abatement only, as set forth in Section 182.18.

182.17 SERVICE OF NOTICE. Notices given pursuant to this chapter shall be served by certified mail and regular mail, postage prepaid, to all persons deemed responsible for the violation, and to all other parties required by law or by departmental policy or procedure to receive such notices, at their last known mailing addresses as shown by the records of the County Auditor, and if deemed appropriate by the Department Director, or their designee, at their last known mailing addresses as shown by any other available public record. In addition to and concurrently with mailing, notice may be delivered by a peace officer, process server, or any other method deemed appropriate. Failed attempts to locate the person responsible for the violation shall be documented by the department.

182.18 ADMINISTRATIVE HEARINGS.

1. Recipients of notices pursuant to this chapter for which the department elects to follow the administrative hearing procedure, as stated in the notice, may request an administrative hearing as follows:

A. Requests shall be made in writing, and either hand-delivered to the Clerk no later than seven calendar days from the date of the notice or sent to the Clerk via regular mail postmarked by official U.S. postal service cancellation and not by postage meter no later than seven calendar days from the date of the notice.

B. Each request for hearing shall contain the name, address, electronic mail (e-mail) address, and daytime telephone number of any person requesting a hearing and of any attorney or agent duly authorized by the person who has received the notice to represent them at the hearing.

C. Each request for hearing shall set out the requester's basis for the appeal.

D. Failure to request a hearing within seven calendar days from the date of the notice shall be deemed a waiver of the right to contest the validity of the determination of nuisance or determination of costs stated in the notice, as applicable. The information set forth in the notice will be deemed to be valid and abatement or assessment of abatement costs will proceed as indicated in the notice.

2. All administrative hearings requested in compliance with this section shall proceed as follows:

A. Shall be scheduled by the Clerk to occur as soon as practical following the date of the notice.

B. Shall be held before the City Administrator and be conducted informally. The department and the person in receipt of the notice may be represented by counsel or duly authorized agent, and examine witnesses, and present evidence.

C. The person requesting the hearing shall be notified in writing by regular mail or by electronic mail (e-mail), or by phone of the date and time for the hearing at least three business days in advance thereof.

D. For hearings following notice to abate a nuisance, the City Administrator shall either find that a nuisance exists, or void or reverse the notice. If the hearing officer finds that a nuisance exists and evidence of plans for abatement are presented at the hearing by the recipient of the notice, the hearing officer may grant additional reasonable time for the abatement of the nuisance by the recipient of the notice prior to City abatement of the nuisance.

E. For hearings following notice of costs of abatement, the City Administrator shall either uphold the amount billed, reduce the amount billed, or waive the costs, and shall not determine any other issue relating to the nuisance abatement including, but not limited to, any issue that may have been raised at a hearing following notice to abate a nuisance. Any costs not waived by the City Administrator may be assessed against the real property for collection in the same manner as a property tax.

F. If an owner or their representative fails to appear at the hearing, they shall be considered in default and the requested relief shall not be granted.

3. The determination of the City Administrator shall be in writing, including findings of fact, and is the final administrative decision of the City.

A. Any party aggrieved by the determination of the hearing officer pursuant to this chapter may challenge whether the officer exceeded proper jurisdiction or otherwise acted illegally by commencing a certiorari action in the district court for the County. The petition to initiate a certiorari action must be filed within 30 days after the entry of the final determination unless an extension of time is allowed by the reviewing court pursuant to *Division XIV of the Iowa Rules of Civil Procedure*. The City Administrator is hereby authorized to initiate a certiorari on behalf of the City when the City Administrator, in consultation with the City Attorney, deems it necessary and appropriate.

B. The filing of an action in the district court challenging the determination of the City Administrator does not automatically stop the City from taking action pursuant to such determination. Unless the City has been served with an order from the district court directing otherwise, the City may proceed with enforcement of a determination.

4. Request for an administrative hearing does not stay an action by the City for alternative relief as allowed by law.

182.19 NUISANCES ENFORCED BY CIVIL ACTION. Notices pursuant to this chapter for which the department elects to proceed by civil action shall be served in the manner set forth in Section 182.17 and shall contain all information set forth in Section 182.16 as well as a

statement that the City may file a civil action and seek a court order relating to the existence, abatement, and recovery of abatement costs of the nuisance.

182.20 EMERGENCY ACTIONS. If the department determines that a nuisance exists which constitutes an emergency requiring immediate abatement, the City may perform any emergency action necessary to abate the nuisance without prior notice or abatement hearing.

182.21 RENOVATION AGREEMENT.

1. Any maintenance items which cannot be completed within the noticed timeframe because of weather constraints or extraordinary circumstances not of the owners or authorized management agents making them may request an extension of time.

2. An owner or authorized management agent may make a request, accompanied by the fee set forth in the Schedule of Fees adopted by the Council by resolution, for an extension that is specific to the structure or premise and must show that:

A. Strict compliance with this chapter is impractical; and

B. The extension does not violate the intent and purpose of the Municipal Code; and

C. At the Administrator's discretion, proof of financial ability to complete the repairs may be requested and must be provided by the owners or authorized management agent prior to approval.

3. Extensions of time will be entered into by the owner or authorized management agent and the Administrator through an executed renovation agreement.

4. Upon execution of a renovation agreement, a temporary rental license will be issued which will expire upon the date set for completion of the repairs as set out in the agreement.

5. An owner or authorized management agent may appeal a denial of an extension pursuant to Section 182.18.

182.22 CIVIL ACTIONS; ALTERNATIVE RELIEF.

1. Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a municipal infraction punishable by a civil penalty as provided by Chapter 3.

2. Proceeding with an administrative hearing, civil action, or emergency action as authorized in this chapter does not preclude the City from seeking alternative relief from a court in the same action or as a separate action, including, but not limited to, an order for abatement, injunctive relief, or authorization to make repairs.

3. In addition to other remedies set forth in this chapter, when it is determined by the Administrator that a nuisance exists or that a person is a habitual violator, the City may file a civil action in the district court seeking an order enjoining the person from further violation of this chapter on real property owned or controlled by such person or real property where such person acts as an agent, tenant, or lessee of any residential dwelling, commercial establishment, or real property within the City. The City may further request that upon entry of the injunction; the court allow the City to abate further violations without notice or seek an order of contempt.

182.23 RIGHT OF ENTRY. The Administrator is authorized to enter at reasonable times onto and into open unobstructed property and structures to inspect, and a property owner or occupant is required to allow such inspection. If entry onto real estate for the purposes described in this chapter is refused, the Administrator may pursue a municipal infraction or obtain an administrative search warrant as provided by law to gain entry onto the real estate for the purpose of inspection or otherwise as provided by law.

[The next page is 1773]

CHAPTER 185

FLOODPLAIN MANAGEMENT

185.01 Definitions
185.02 Statutory Authority, Findings of Fact, and Purpose
185.03 General Provisions
185.04 Administration
185.05 Establishment of Zoning (Overlay) Districts
185.06 Floodway (Overlay) District (FW)
185.07 Floodway Fringe (Overlay) District (FF)
185.08 General Floodplain (Overlay) District (GF)
185.09 Reserved
185.10 Appointment and Duties of Board of Appeals
185.11 Nonconforming Uses
185.12 Penalties for Violation
185.13 Amendments

185.01 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Appurtenant structure" means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

2. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the "100-year flood.")

3. "Base Flood Elevation" (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

5. "Board of Appeals" means the Board of Adjustment.

6. "Development" means any manmade change to improved or unimproved real estate, including (but not limited to) buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. Development does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

7. "Enclosed area below lowest floor" means the floor of the lowest enclosed area in a building when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 185.07(2)(D)(1); 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 (1) foot above the Base Flood Elevation; and

D. The enclosed area is not a basement as defined in this section.

8. "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.

9. "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.

10. "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).

11. "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 include recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

12. "Factory-built home park or subdivision" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

13. "Five hundred (500) year flood" means a flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

14. "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.

15. "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.

16. "Flood Insurance Study" (FIS) means a report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

17. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

18. "Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including (but not limited to) emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

19. "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.

20. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge floodwaters 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 (1) foot.

21. "Floodway fringe" means those portions of the Special Flood Hazard Area outside the floodway.

22. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

23. "Historic structure" means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register.

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either:

(1) An approved state program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in states without approved programs.

24. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area Below Lowest Floor are met.

25. "Maximum damage potential development" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; emergency response facilities, power installations needed in emergency or other buildings or building complexes similar in nature or use.

26. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than $500.00.

27. "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.

28. "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.

29. "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.

30. "Repetitive loss" means a structure covered by an NFIP flood insurance policy that has incurred flood-related damages on two occasions during a 10-year period on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on average, equaled or exceed 25% of the market value of the structure at the time of each such flood event.

31. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

A. Normal maintenance of structures such as re-roofing, replacing roofing tiles, and replacing siding.

B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.

C. Basement sealing.

D. Repairing or replacing damaged or broken window panes.

E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems, and repairing wells or septic systems.

32. "Special Flood Hazard Area" (SFHA) means the land within a community subject to the base flood. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

33. "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.

34. "Structure" means anything constructed or erected on the ground or attached to the ground, including (but not limited to) buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.

35. "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 (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

36. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds fifty (50) percent of the market value of the structure either:

(1) Before the start of construction of the first improvement of the structure; or

(2) 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 a historic structure, provided the alteration will not preclude the structure's designation as a historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

37. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.

38. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

185.02 STATUTORY AUTHORITY, FINDINGS OF FACT, AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 414 of the *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by:

(1) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and

(2) The cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges, and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 185.02(2)(A) with provisions designed to:

A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

E. Ensure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

185.03 GENERAL PROVISIONS.

1. Lands to Which Chapter Applies. The provisions of this chapter shall apply to all lands within the jurisdiction of the City shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Floodplain, and Shallow Flooding (Overlay) Districts, as established in Section 185.05.

2. Establishment of Official Floodplain Zoning Map. The Flood Insurance Rate Maps (FIRM) for Polk County and Incorporated Areas, City of Windsor Heights, Panels 19153C0326F, 19153C0327F, and 19153C0329F dated February 1, 2019, which were prepared as part of the Flood Insurance Study for Polk County are hereby adopted by reference and declared to be the Official Floodplain 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.

3. Rules for Interpretation of District Boundaries. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this chapter.

4. Compliance. No structure or land shall hereafter be used, and no structure shall be located, extended, converted, or structurally altered, without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

5. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

6. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

7. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, or any officer or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

8. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

185.04 ADMINISTRATION.

1. Appointment, Duties, and Responsibilities of Administrator.

A. The Building Official is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include (but not necessarily be limited to) the following:

(1) Review all Floodplain Development Permit Applications to ensure that the provisions of this chapter will be satisfied.

(2) Review Floodplain Development Applications to ensure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of:

a. The elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures; or

b. 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 Administrator of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the Board of Appeals of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

a. Development placed within the Floodway (Overlay) District results in any of the following:

i. An increase in the Base Flood Elevations; or

ii. Alteration to the floodway boundary.

b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one (1) foot in the base elevation; or

c. Development relocates or alters the channel.

Within six (6) months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

(11) Forward all requests for Variances to the Board of Appeals for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Appeals

2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials or equipment, excavation, or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address, or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all structures and additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.

(7) For structures being improved or rebuilt, a detailed cost estimate of proposed improvements and the market value of the structure prior to the improvements. The detailed cost estimate shall include the true cost of both labor and materials.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for Variances except as directed by the Board of Appeals

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at Variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, structure 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.

185.05 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The floodplain areas within the jurisdiction of this chapter are hereby divided into the following districts:

1. Floodway (Overlay) District (FW) – those areas identified as Floodway on the Official Floodplain Zoning Map.

2. Floodway Fringe (Overlay) District (FF) – those areas identified as Zone AE on the Official Floodplain Zoning Map but excluding those areas identified as Floodway.

3. General Floodplain (Overlay) District (GF) – those areas identified as Zone A on the Official Floodplain Zoning Map.

The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as permitted uses are prohibited unless a Variance to the terms of this chapter is granted after due consideration by the Board of Appeals.

185.06 FLOODWAY (OVERLAY) DISTRICT (FW).

1. Permitted Uses. All development within the Floodway 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 District.

2. Performance Standards. All Floodway District uses allowed as a permitted use shall meet the following standards.

A. No development shall be permitted in the Floodway District that would result in any increase in the Base Flood Elevation. 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 development 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 development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

D. Structures, buildings, recreational vehicles, 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. Structures, 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.

185.07 FLOODWAY FRINGE (OVERLAY) DISTRICT (FF).

1. Permitted Uses. All development 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.

2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. All Development. All development shall:

(1) Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the Base Flood Elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the Base Flood Elevation and extend at such elevation at least eighteen (18) feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Board of Appeals, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood.

C. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the Base Flood Elevation, 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 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 base flood; and that the structure, below the Base Flood Elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures.

(1) 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:

a. A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one (1) foot above grade.

c. 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. Where the distance between the floor and ceiling of the fully enclosed area below the lowest floor is five (5) feet or more, the applicant shall be required to sign and record with the County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in this Section 185.07(2)(D)(1).

(2) 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.

(3) New and substantially improved structures shall be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or, in the case of nonresidential structures, optionally floodproofed to) a minimum of one (1) foot above the Base Flood Elevation.

(4) New and substantially improved structures shall be constructed with plumbing, gas lines, water meters, gas meters, and other similar service utilities either elevated (or in the case of nonresidential structures, optionally floodproofed to) a minimum of one (1) foot

above the Base Flood Elevation or designed to be watertight and withstand inundation to such a level.

E. Factory-Built Homes.

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the Base Flood Elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the *State Building Code*.

F. Utility and Sanitary Systems.

(1) On-site wastewater disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) 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 (1) foot above the Base Flood Elevation.

(3) 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 (1) foot above the Base Flood Elevation.

(4) 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.

G. Storage of Materials and Equipment. 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 (1) foot above the Base Flood Elevation. Other material and equipment must either be similarly elevated or:

(1) Not be subject to major flood damage and anchored to prevent movement due to flood waters; or

(2) Be readily removable from the area within the time available after flood warning.

H. Flood Control Structural Works. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three (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.

I. Watercourse Alterations. 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.

J. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include Base Flood Elevation data for those areas located within the Floodplain Fringe (Overlay) District.

K. Accessory Structures to Residential Uses.

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the Base Flood Elevation requirements where the following criteria are satisfied:

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed six hundred (600) square feet in size. Those portions of the structure located less than one (1) foot above the Base Flood Elevation must be constructed of flood-resistant materials.

b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one (1) foot above the Base Flood Elevation.

f. The structure's walls shall include openings that satisfy the provisions of Section 185.07(2)(D)(1).

(2) Exemption from the Base Flood Elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles and Campgrounds.

(1) Recreational vehicles are exempt from the requirements of Section 185.07(2)(E) regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than one hundred eighty (180) consecutive days, and

b. 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.

(2) Recreational vehicles that are located on the site for more than one hundred eighty (180) consecutive days or are not ready for highway use must satisfy requirements of Section 185.07(2)(E) regarding anchoring and elevation of factory-built homes.

(3) Any campground with overnight lodging shall have an evacuation plan that includes the following:

a. Responsible parties for carrying out the evacuation plan.

b. Action stages that are based on stream levels, gage data, or weather forecasts, as appropriate.

c. A detailed list of actions that need to be taken to ensure all vehicles and campers are evacuated, including how notifications are to be delivered.

M. Pipeline Crossings. Pipeline crossings rivers and streams shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

N. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the five hundred (500)-year flood, 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 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 two-tenths (0.2) percent annual chance flood; and that the structure, below the two-tenths (0.2) percent annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where a two-tenths (0.2) percent chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

185.08 GENERAL FLOODPLAIN (OVERLAY) DISTRICT (GF).

1. Permitted Uses.

A. All development within the General Floodplain 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 General Floodplain District.

B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine:

(1) Whether the land involved is either wholly or partly within the floodway or floodway fringe; and

(2) The Base Flood Elevation.

The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

2. Performance Standards.

A. All development, 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 185.06.

B. All development, 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 185.07.

185.09 RESERVED.

185.10 APPOINTMENT AND DUTIES OF BOARD OF APPEALS.

1. Appointment and Duties of Board of Appeals. A Board of Appeals is hereby established which, hereinafter referred to as the Board, shall hear and decide:

A. Appeals; and

B. Requests for Variances to the provisions of this chapter and shall take any other action which is required of the Board.

2. Appeals. Where it is alleged that 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 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 all the documents constituting the record upon which the action appealed from was taken.

3. Variance. The Board 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:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the Variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of 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 base 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 structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that:

(1) The issuance of a Variance will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage; and

(2) 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.

A. Hearings. Upon the filing with the Board of an Appeal 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 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 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 185.10(4)(B)(2).

(1) Factors Upon Which the Decision of the Board Shall Be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments.

b. The danger that materials may be swept on to other land or downstream to the injury of others.

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

e. The importance of the services provided by the proposed facility to the City.

f. The requirements of the facility for a floodplain location.

g. The availability of alternative locations not subject to flooding for the proposed use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site.

l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.

m. Such other factors which are relevant to the purpose of this chapter.

(2) Conditions Attached to Variances. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of Variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

a. Modification of waste disposal and water supply facilities.

b. Limitation of periods of use and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board 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.

5. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

185.11 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six (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 damaged by any means, including flood, it shall not be reconstructed if the cost equals or exceeds fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building, or safety codes or regulations, or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in Section 185.11(1)(B), any use which has been permitted as a Variance shall be considered a conforming use.

185.12 PENALTIES FOR VIOLATION. 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 Variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

185.13 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.

INDEX TO CODE OF ORDINANCES

CHAPTER OR SECTION NUMBER

ABANDONED OR UNATTENDED REFRIGERATORS 40.02.08

ABANDONED UTILITY CONNECTIONS
- On-Site Wastewater Treatment and Disposal Systems 98.07
- Sanitary Sewer Service 95.10

ABANDONED VEHICLES 52
See also Impounding Vehicles 60.11.06
See also State Code Traffic Regulations 60.03

ABATEMENT OF NUISANCES 50

ACCESSORY BUILDINGS 172

ACCOUNTING RECORDS 7.07

ADMINISTRATION AND ENFORCEMENT 181

ADULT ENTERTAINMENT FACILITIES 125

AIR POLLUTION ..... 50.02(8)
See also **ENVIRONMENTAL VIOLATION** 3.02

ALARM SYSTEMS 31

ALCOHOL
- Consumption and Intoxication 40.06
- Liquor Licenses and Wine and Beer Permits 120
- Open Containers in Motor Vehicles ..... 60.03.01(50) and (51)
- Social Host Liability 40.01.05

ALL-TERRAIN VEHICLES AND SNOWMOBILES 60.12

AMUSEMENT DEVICES 120.06

ANGLE PARKING ..... 60.10.04 and 60.10.05

ANIMAL PROTECTION AND CONTROL
- Animal Neglect 55.08
- Annual License Required 55.11
- Applications for Licenses 55.13
- Community Cats 55.34
- Definitions 55.01
- Delinquency 55.15

CHAPTER OR SECTION NUMBER

ANIMAL PROTECTION AND CONTROL (CONTINUED)
Delinquent Fee List 55.16
Designation of Urban Deer Management Zone 55.33
Display of License Tag 55.20
Disposition of Impounded Animals 55.07
Duplicate License Tag 55.21
Duplicate License Tag Fee 55.22
Enclosures 55.03
Exceptions to License Requirements 55.12
Expiration of License and License Tag 55.24
False Representation of Service Animal 55.37
Feeding Deer 55.32
Fees 55.29
Indoor Pets 55.31
Issuance of License and License Tag 55.19
License Fees 55.14
Livestock ..... 55.09 and 55.10
Notice to Owner of Licensed Animal 55.06
Offenses 55.04
Penalty 55.38
Pet Awards Prohibited 55.30
Pets; Types and Numbers of Animals Permitted 55.02
Public Hearing; Delinquent Fee List 55.17
Quarantine for a Minimum Period of 14 Days 55.26
Report of Person Whose Animal Has Been Bitten 55.28
Requirements When an Animal Has Bitten a Person 55.27
Seizure and Impounding 55.05
Tampering with a Rabies Vaccination Tag 55.35
Tampering with an Electronic Handling Device 55.36
Transfer of License or License Tag Prohibited 55.23
Trapping 55.25
Vaccination of Dogs and Cats 55.18

ANTENNA AND RADIO WIRES 40.02.09

CHAPTER OR SECTION NUMBER

APPEALS
Alarm Systems ..... 31.03(3)
Board of Adjustment 179.03
Building Code 155
Dangerous Dogs 56.03
Floodplain Management 185
Illegal or Dangerous Animals 57
Illicit Discharge to Stormwater System 102.09
Mobile Food Units ..... 127.08(5)
Parklets 142.12
Peddlers, Solicitors, and Transient Merchants 122.14
Post-Construction Stormwater Control 161.16
Property Maintenance and Rental Housing Code 156
Regulation of Industrial Wastewater and Commercial Wastewater 100
Standard Construction Specifications 157

APPOINTMENTS
By Council 17.05
By Mayor 15.03

ASSAULT 40.01.01

ATTORNEY FOR CITY 20

ATVS, UTVS, AND SNOWMOBILES 60.12

AUTOMOBILE REPAIR ON PUBLIC PROPERTY ..... 60.10.06(2)

BEER, LIQUOR, AND WINE CONTROL
See **ALCOHOL**

BICYCLES 60.13
See also Clinging to Vehicles 60.03.04
See also State Code Traffic Regulations 60.03.01

BILLBOARDS ..... 50.02(4) and 60.03.10

BOARD OF ADJUSTMENT 179

BOARDS AND COMMISSIONS
Board of Adjustment 179
City Administrator 21
Planning and Zoning Commission 23
Public Works Director 22

CHAPTER OR SECTION NUMBER

BONDS
City Officials 5.02
Collection of Solid Waste 106.07
Demolition and Raze Permit 163.04
Excavation of Public Property ..... 135.03(7)
House Movers 123.04
Performance 100.46
Post-Construction Stormwater Control 161.11
Public Bonds, Records of ..... 18.08(3)
Regulation of Industrial Wastewater and Commercial Wastewater 100.75
Transient Merchants 122.05

BOUNDARIES 4

BUDGET
Amendments 7.06
Preparation 7.05

BUILDING CODE 155

BUILDING MOVERS 123

BUILDING SEWERS AND CONNECTIONS 95

BULKY RUBBISH 106.05

BURNING
Fires in Parks 40.08.07
Fires or Fuel on Sidewalks 136.20
Open Burning Restricted 105.05
Yard Waste 105.11

BUSINESS DISTRICT 60.03.09
See also:
Prohibited Crossing 60.08.05
Speed Regulations ..... 60.04.02(1)
Truck Parking Limited ..... 60.10.09(3)(B)
U-Turns 60.05.02

CABLE TELEVISION
Regulations 113

CAMPING IN PARKS 40.08.10

CHARTER 2

CHAPTER OR SECTION NUMBER

CIGARETTES AND TOBACCO
Parklets ..... 142.07(13)
Permits 121
Possession by Minors 40.07.01

CITY ADMINISTRATOR 21

CITY ATTORNEY 20

CITY CHARTER 2

CITY CLERK 18

CITY COUNCIL
Appointments by 17.05
Compensation 17.06
Meetings ..... 17.04 and 5.07 and 35.04(17)
Number and Term ..... 2.04 and 17.01
Powers and Duties ..... 17.02 and 17.03

CITY ELECTIONS 6

CITY OFFICERS AND EMPLOYEES
Appointments by Council 17.05
Appointments by Mayor 15.03
Bonds 5.02
City Administrator 21
City Attorney 20
City Clerk 18
City Council 17
Conflict of Interest 5.08
Discretionary Powers 1.13
Extension of Authority 1.07
Finance Director 19
Fire Chief 35
Gifts to 5.12
Harassment of 40.01.02
Indemnity of 1.04
Mayor 15
Oath of Office 5.01
Police Chief 30
Powers and Duties 5.03
Removal of an Officer's Communication or Control Device 40.02.07
Removal of Appointed Officers and Employees 5.10
Representation by City Attorney 20.09
Resignations 5.09
Sewer Superintendent 95.03
Vacancies 5.11

CHAPTER OR SECTION NUMBER

CITY OPERATING PROCEDURES 5

CITY POWERS 1.03

CITY SEAL 18.13

CIVIL CITATIONS 3.04

CLINGING TO VEHICLE 60.03.04

CODE OF IOWA TRAFFIC REGULATIONS 60.03.01

CODE OF ORDINANCES
- Altering 1.10
- Amendments to 1.08
- Catchlines and Notes 1.09
- Definitions of Terms 1.02
- Rules of Construction 1.06
- Validity 1.11

COMPENSATION
- Changes in ..... 17.02(6)
- City Administrator 21.01
- City Attorney 20.01
- City Clerk 18.01
- Council Members 17.06
- Finance Director 19.02
- Fire Department ..... 35.04(2)
- Mayor 15.04
- Mayor Pro Tem 16.04
- Planning and Zoning Commission 23.04
- Set by Council ..... 17.02(6)

COMPREHENSIVE PLAN 178

CONDITIONAL USE PERMITS 180

CONFLICT OF INTEREST 5.08

CONTRIBUTING TO DELINQUENCY 40.07.02

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL 160

CORPORATE LIMITS 4

CHAPTER OR SECTION NUMBER

COUNCIL 17

COUNCIL MEETINGS 17.04

CRIMINAL MISCHIEF 40.03.02

CROSS CONNECTION CONTROL 91

CROSSWALKS
- Designation and Maintenance 60.02.03
- Parking Prohibited in ..... 60.10.07(1)
- Pedestrians' Right-of-Way 60.08.03

DANGEROUS DOGS 56

DANGEROUS SUBSTANCES, DISTRIBUTING OF 40.02.01

DANGEROUS TOYS (THROWING AND SHOOTING) 40.05.07

DEFACING PROCLAMATIONS AND NOTICES 40.03.03

DEMOLITION AND RAZE PERMIT 163

DEPOSITS AND INVESTMENTS ..... 7.03(2)

DESTRUCTION 40.08.06

DISCRETIONARY POWER OF CITY OFFICERS AND EMPLOYEES 1.13

DISORDERLY CONDUCT 40.01.03

DOGS 55
See also **ANIMALS**

DRIVEWAY REGULATIONS 140

DRUGS AND CONTROLLED SUBSTANCES 40.04

EASEMENTS, USE OF 95.08

ELECTIONS
- Duties of Clerk 18.12
- Procedures 6

ELECTRIC FRANCHISE 111

CHAPTER OR SECTION NUMBER

ENVIRONMENTAL VIOLATIONS 3.02

EXCAVATION OF PUBLIC PROPERTY 135

EXCAVATIONS
- Building Sewers and Connections ..... 96.09(9)
- Demolition and Raze Permit ..... 163.05(4)
- Electric Franchise 111.05
- Fiber Optic Cable License 141.04
- Natural Gas Franchise 110.05
- Sewer 96.03
- Parking Regulations 60.10.11
- Public Property 135

EXTENSION OF AUTHORITY 1.07

FAILURE TO ASSIST 40.02.14

FAILURE TO DISPERSE 40.01.04

FALSE IDENTIFICATION INFORMATION 40.02.03

FALSE REPORTS
- Of Catastrophe ..... 40.01.03(5)
- To Public Safety Entities 40.02.02

FENCES
- Blocking Public and Private Ways ..... 50.02(4)
- Zoning 172.12

FIBER OPTIC CABLE LICENSE 141

FIGHTING 40.01.03

FINANCE DIRECTOR 19

FINANCES 7

FINANCIAL REPORTS 7.08

FIRE DEPARTMENT 35

FIRE HAZARD CONDITIONS
- Health and Fire Hazard 105.04
- Storing of Flammable Junk ..... 50.02(7)
- Weeds and Brush ..... 50.02(9)

FIRE SPRINKLER SYSTEMS CONNECTIONS 155.03

CHAPTER OR SECTION NUMBER

FIRES
In Parks 40.08.07
On Sidewalks 136.20
Open Burning Restricted 105.05

FIREWORKS ..... 40.08.08 and 40.02.11

FISCAL MANAGEMENT 7

FLAG, DISRESPECT OF ..... 40.01.03(6)

FLOODPLAIN MANAGEMENT 185

FORM OF GOVERNMENT 2.02

FRAUD ..... 40.03.04 and 124.17(1)

FUNDS 7.04

FUNERAL SERVICE, DISRUPTION OF ..... 40.01.03(7)
See also State Code Traffic Regulations 60.03

GANG ACTIVITY ..... 50.02(5)

GARBAGE COLLECTION AND DISPOSAL ..... 105 - 107

GAS FRANCHISE 110

GIFTS TO CITY OFFICIALS 5.11

GOLF CARTS 60.14

GRADES OF STREETS, ALLEYS, AND SIDEWALKS 138

HANDICAPPED PARKING
See Persons with Disabilities Parking 60.10.08

HARASSMENT
Of Other Persons 40.01.02
Of Public Officers and Employees 40.02.05

HAZARDOUS SUBSTANCE SPILLS 36

HAZARDOUS WASTE 105.06

CHAPTER OR SECTION NUMBER

HOTEL - MOTEL TAX 9

ILLEGAL OR DANGEROUS ANIMALS 57

ILLICIT DISCHARGE TO STORMWATER SYSTEM 102

IMPOUNDING
- Abandoned Vehicles 52.02
- Animals 55.05
- Illegal or Dangerous Animals 57
- Traffic Code Enforcement Procedures 60.11.06
- Vehicles 60.11.06

INDEMNITY AGREEMENT, PERMITS, AND LICENSES 1.04

INSPECTIONS
- Alarm Systems ..... 31.03(2)(B)
- Building Code 155
- Building Sewers and Connections 96.06
- Electric Franchise 111.08
- Excavation of Public Property 135.03
- Driveway Regulations 140.08
- Natural Gas Franchise 110.08
- Post-Construction Stormwater Control 161.13
- Property Maintenance and Rental Housing Code 156
- Public Health and Safety ..... 40.02.11(4)(A)(3)
- Regulation of Industrial Wastewater and Commercial Wastewater ..... 100.37 and 100.64
- Sanitary Sewer System ..... 95.03(2)
- Sidewalk Regulations 136.14
- Standard Construction Specifications 157
- Trees and Vegetation 151.17
- Vacant Property Registration 182

INSURANCE REQUIREMENTS
- Dangerous Dogs 56.03
- Excavation of Public Property 135.03
- Fiber Optic Cable License 141.11
- Firefighters 35
- Fireworks 40.02.11
- House Movers 123.05
- Mobile Food Units 127.03
- Parklets 142.10
- Public Health and Safety ..... 40.02.11(4)(A)(2)
- Zoning Code - Supplemental Site Development Regulations ..... 172.11(2)(H)
- Zoning Code - Temporary Use Structures ..... 171.06(7)(D)

CHAPTER OR SECTION NUMBER

INTERFERENCE WITH OFFICIAL ACTS 40.02.06

INVESTMENTS AND DEPOSITS ..... 7.03(2)

JUNK AND JUNK VEHICLES 51
See also Storing of Flammable Junk ..... 50.02(7)

LEGAL OPINIONS 20.06

LICENSES
- Animal Protection and Control 55
- Dangerous Dogs 56
- Drivers 60.03.01
- Fiber Optic Cable License 141
- Liquor 120
- Mobile Food Units 127
- Other Public Offenses Enforcement Provisions 40.04
- Pawnbrokers 124
- Peddlers, Solicitors, and Transient Merchants 122
- Public Health and Safety ..... 40.02.11(4)(A)(1)
- Regulation of Industrial Wastewater and Commercial Wastewater ..... 100.74 and 100.75
- Zoning Code - Definitions 166

See also Issuance of Licenses and Permits 18.10
See also Permits

LIQUOR LICENSES AND WINE AND BEER PERMITS 120

LITTER CONTROL 53

LITTERING
- Debris on Sidewalks 136.22
- Control 53
- Park Regulations 40.02.12

LIVESTOCK ..... 55.09 and 55.10

LOAD AND WEIGHT RESTRICTIONS, VEHICLES 60.07

MANUFACTURED AND MOBILE HOMES
See also:
- Factory-Built Homes (Floodplain Management) ..... 185.07(2)(E)
- Mobile Homes (Zoning Regulations) 172.02

MAYOR
- Appointments 15.03
- Compensation 15.04
- Powers and Duties 15.02
- Term of Office 15.01
- Voting 15.05

See also City Officers And Employees

CHAPTER OR SECTION NUMBER

MAYOR PRO TEM 16

MEETINGS
Board of Adjustment ..... 179.01 and 179.02
Council Meetings 17.04
Fire Department ..... 35.04(17)
Procedures for Notice and Conduct of 5.07
Publication of Minutes of Council Meetings 18.03

MINORS 40.07
See also:
Amusement Devices 120.06
Businesses Operated By ..... 122.17(13)
Employment for Serving of Alcohol ..... 120.05(4)
Persons Under Legal Age (Alcohol) 40.06.01
Persons Under Legal Age (Tobacco) 121.09
Weapons 40.05.08

MOBILE FOOD UNITS 127

MOBILE HOMES
See also Zoning Regulations 172.02

MUNICIPAL INFRACTIONS 3
See also Municipal Infraction Abatement Procedure 50.06

NAMING OF STREETS 139

NATURAL GAS FRANCHISE 110

NOISE CONTROL 54
See also:
Disorderly Conduct 40.08.11
General Traffic Regulations 60.03.08
Quiet Zones 60.03.06
Zoning Code - Supplemental Site Development Regulations ..... 172.11(2)(E)

NOMINATIONS FOR ELECTIVE OFFICES 6

NUISANCE ABATEMENT PROCEDURE 50

OATH OF OFFICE 5.01

OFFENSIVE SMELLS AND SUBSTANCES ..... 50.02(1) and (2)

OFF-ROAD MOTORCYCLES AND UTILITY VEHICLES 60.12

CHAPTER OR SECTION NUMBER

ONE-WAY TRAFFIC 60.09

ON-SITE WASTEWATER SYSTEMS 98

OPEN BURNING 105.05

OPEN CONTAINERS IN MOTOR VEHICLES ..... 60.03.01(50) and (51)

OPEN MEETINGS 5.07

OPERATING PROCEDURES 5

OPERATION OF GOLF CARTS ON CITY STREETS 60.14

OTHER PUBLIC OFFENSES ENFORCEMENT PROVISIONS 40.09

PARADES REGULATED 60.01.07

PARK REGULATIONS 40.08
See also Parks, Cemeteries and Parking Lots (Speed Limits) 60.04.03

PARKING REGULATIONS
- Angle Parking ..... 60.10.04 and 60.10.05
- Illegal Purposes 60.10.06
- Park Adjacent to Curb ..... 60.10.02 and 60.10.03
- Parking Limited or Controlled 60.10.01
- Parking of Bicycles 60.13.14
- Parking Prohibited 60.10.07
- Parking Violations ..... 60.11.02 and 60.11.03
- Persons With Disabilities Parking ..... 60.10.08 and 174.08
- Snow Removal 60.10.10
- Temporary No Parking Signs Near Excavation 60.10.11
- Truck Parking Limited 60.10.09

PARKLETS 142

PAWNBROKERS 124

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS 122

PEDESTRIANS 60.08
See also:
- Crosswalks 60.01.03
- State Code Traffic Regulations 60.03
- Pedestrians' Right-of-Way 60.08.03

CHAPTER OR SECTION NUMBER

PENALTIES
Administration and Enforcement 181.04
Alarm Systems 31.05
Animal Protection and Control..... 55
Building Code..... 155
Cigarette and Tobacco Permits..... 121.09
Construction Site Erosion and Sediment Control..... 160.08
Floodplain Violations..... 185.12
Mobile Food Units..... 127.08
Municipal Infractions 3
Noise Control 54.09
Operation of Golf Carts on City Streets 60.14.11
Post-Construction Stormwater Control 161.15
Regulation of Industrial Wastewater and Commercial Wastewater..... 100
Sanitary Sewer Regulations..... 95.09
Sewer Connection Requirements 96.08
Standard Penalty for Violation of Code of Ordinances..... 1.14
Traffic Code Violations..... 60.11
Zoning Code - Temporary Use Structures..... 171.10

PERMITS
Administration and Enforcement 181
Beer and Wine..... 120
Bicycle Regulations..... 60.13
Building..... 155
Cigarette and Tobacco..... 121.02
Conditional Use Permits..... 180
Excavation of Public Property..... 135
Demolition and Raze Permit 163
Driveway Regulations 140.02
Fireworks..... 40.02.11
Floodplain Management..... 185
House Mover..... 123.02
Illegal or Dangerous Animals..... 57
Illicit Discharge to Stormwater System..... 102
Mobile Food Units..... 127
Noise Control 54.07
On-Site Wastewater System..... 98.04
Operation of Golf Carts on City Streets 60.14
Parade..... 60.01.07(1)
Parklets..... 142

CHAPTER OR SECTION NUMBER

PERMITS (CONTINUED)
Persons with Disabilities Parking 60.10.08
Post-Construction Stormwater Control 161
Regulation of Industrial Wastewater and Commercial Wastewater 100
Sewer Connection 96.01
Sidewalks 136.12
Temporary Structures ..... 152 and 175
Trees and Vegetation 151
Vehicles, Excess Size and Weight 60.07.02
Vending Machines and Sales Stands on Sidewalks 136.25
Water System Connection 90.04
Zoning Code - Access and Parking 174
Zoning Code - Sign Regulations 175
Zoning Code - Temporary Use Structures 171
See also Issuance of Licenses and Permits 18.10
See also Licenses

PERSONAL INJURIES 1.05

PET AWARDS PROHIBITED 55.30

PLANNING AND ZONING COMMISSION 23

POLICE DEPARTMENT 30

POLICE OFFICERS
Failure to Assist 40.02.14
Interference with 40.02.06
Obedience to 60.01.06
Powers and Authority under Traffic Code 60.01
Qualifications 30.03
Removal of an Officer's Communication or Control Device 40.02.07
Training 30.04
See also **POLICE DEPARTMENT** 30

POLLUTION
Air Pollution ..... 50.02(8)
Environmental Violations 3.02
Hazardous Substance Spills 36
Incinerators Required ..... 105.09(4)
Open Burning Restricted 105.05
Toxic and Hazardous Wastes 105.06
Water Pollution ..... 50.02(3)

CHAPTER OR SECTION NUMBER

POST-CONSTRUCTION STORMWATER CONTROL 161

POWERS AND DUTIES
- Abandoned Vehicles 52.09
- Board of Adjustment 179.04
- City Administrator 21.05
- City Clerk 18.02
- City Council ..... 17.02 and 17.03
- City Officers Generally 2.03
- Finance Director 19.03
- Fire Chief 35.04
- Mayor 15.02
- Mayor Pro Tem 16.02
- Municipal Officers 5.03
- Planning and Zoning Commission 23.05
- Police Chief 30.08
- Public Works Director 22.02

PRIVATE PROPERTY 40.03

PROPERTY MAINTENANCE AND RENTAL HOUSING CODE 156

PUBLIC AND PRIVATE PROPERTY
- Criminal Mischief 40.03.02
- Damage to Sewer System ..... 95.04(1)
- Defacing Proclamations or Notices 40.03.03
- Fraud 40.03.04
- Park Regulations 40.08
- Sidewalk Regulations 136
- Street Excavations 135
- Theft 40.03.04
- Trees and Shrubs on Public Property 151
- Trespassing 40.03.01

PUBLIC HEALTH AND SAFETY 40.02

PUBLIC NOTICES ..... 18.05(1)

PUBLIC OFFENSES
- Drugs and Controlled Substances 40.04
- Public and Private Property 40.03
- Public Health and Safety 40.02
- Public Peace 40.01

See also Excavation of Public Property 135
See also Sidewalk Regulations 136

CHAPTER OR SECTION NUMBER

PUBLICATION REQUIREMENTS 18.05

PUBLIC WORKS DIRECTOR 22

RABIES VACCINATION TAG 55.35

RECORDS
- Accounting 7.07
- Cross Connection Control ..... 91.02(2)
- Fire Department ..... 35.04(8)
- Maintenance by Clerk 18.08
- Minutes of Council Meetings ..... 5.07(4)
- Pawnbrokers 124.09
- Public Records, Access to 5.05
- Regulation of Industrial Wastewater and Commercial Wastewater ..... 100.37 and 100.63
- Transfer to Successors 5.06

REGULATION OF INDUSTRIAL WASTEWATER AND COMMERCIAL WASTEWATER 100

REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES 5.10

REPORTS
- Administration of Traffic Code 60.01.04
- Cable Television Regulations 113.27
- Electric Franchise 111.07
- Fire Department ..... 35.04(9)
- Fiscal Management 7.08
- Mayor ..... 15.02(5)
- Natural Gas Franchise 110.07
- Police Department ..... 30.08(9)
- Public Peace ..... 40.01.02(2)(D)

REPRESENTATION OF CITY EMPLOYEES 20.09

RESIGNATION OF ELECTED OFFICERS 5.09

RIGHT TO ENTER
- Cross Connection Control ..... 91.02(1)
- Demolition and Raze Permit 163.11
- Fire Chief ..... 35.04(11)
- Pawnbrokers 124.13
- Post-Construction Stormwater Control 161.12
- Sewer Service Inspection and Sampling 95.07
- Solid Waste Collection 106.06
- Use of Easements 95.08
- Use of Public Sewers ..... 97.01(10)
- Vacant Property Registration 182.23
- Warrants 1.12

CHAPTER OR SECTION NUMBER

SANITARY SEWER SYSTEM
Building Sewers and Connection Requirements 96
General Provisions 95
On-Site Wastewater Systems 98
Use of Public Sewers 97

SIDEWALKS
Barricades and Warning Lights 136.15
Bicycles on Sidewalks 60.13.11
Construction Standards 136.11
Debris on 136.22
Defacing 136.21
Encroaching Steps 136.18
Fires and Fuel on 136.20
Interference with Improvements 136.16
Maintenance 136
Openings and Enclosures 136.19
Operation of Golf Carts on City Streets ..... 60.14.05(3)
Other Public Offenses Enforcement Provisions 40.09
Parking Prohibited on Sidewalks ..... 60.10.07(4)
Sales Stands and Merchandise Displays ..... 136.24 and 136.25
Snow Removal 136.03
Vehicles Crossing Sidewalks 60.06.03
Vehicles on Sidewalks 60.03.03
Zoning Code - Supplemental Site Development Regulations ..... 172.12(1)(E)

SKATES, COASTERS, AND TOY VEHICLES
Clinging to Vehicle 60.03.04

SNOW EMERGENCY 60.10.10

SNOW REMOVAL
From Sidewalks 136.03
Parking 60.10.10

SNOWMOBILES, ATVS, AND UTVS 60.12

SOLICITORS, PEDDLERS, AND TRANSIENT MERCHANTS 122

SOLID WASTE CONTROL AND RECYCLING
Collection 106
Disposal 107
General Provisions 105

SOLID WASTE DISPOSAL 107

CHAPTER OR SECTION NUMBER

SPECIAL EVENT PERMIT 127

SPEED REGULATIONS 60.04

STANDARD CONSTRUCTION SPECIFICATIONS 157

STATE CODE TRAFFIC REGULATIONS 60.03

STOP OR YIELD REQUIRED 60.06

STORMWATER DRAINAGE UTILITY 101
Discharge to Sanitary Sewer Prohibited ..... 95.04(2)

STREET NAME MAP ..... 139.04 and 139.05

STREETS AND ALLEYS
Blocking Public and Private Ways ..... 50.02(4)
Excavations and Maintenance 135
Grades 138
Naming 139
Vacation and Disposal 137
See also Traffic Code

TAX EXEMPTIONS
Hotel - Motel Tax 9

TEMPORARY SIGNS 153

TEMPORARY STRUCTURES 152

TERMS OF OFFICE
Board of Adjustment 179.01
City Administrator 21.02
Clerk 18.01
Council ..... 2.04 and 17.01
Finance Director 19.01
Mayor ..... 2.05 and 15.01
Planning and Zoning Commission 23.02
Public Works Director 22.01

THEFT
Public and Private Property 40.03.04

TOBACCO PERMITS 121

TOXIC AND HAZARDOUS WASTE 105.06

CHAPTER OR SECTION NUMBER

TRAFFIC CODE
Administration of 60.01
Enforcement Procedures 60.11
General Regulations 60.03
Load and Weight Restrictions 60.07
One-Way Traffic 60.09
Parking Regulations 60.10
Pedestrians 60.08
Speed Regulations 60.04
Stop or Yield Required 60.06
Traffic Control Devices 60.02
Turning Regulations 60.05

TRAFFIC CONTROL DEVICES
Installation; Standards; Compliance 60.02

TRAFFIC REGULATIONS 60.03.01

TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS 122

TREES AND VEGETATION
Adoption of Assessment Schedule 151.19
Assessment 151.04
Assessment for Planting or Care of Trees 151.14
Cable Television Regulations 113.10
Certifying Assessment Schedule for Collection 151.20
Dead and Diseased Trees 151.21
Definitions 151.01
Filing Assessment Schedule for Public Inspection 151.17
Guying Poles to Trees in Case of Emergency 151.08
Hitching or Anchoring Articles to Trees 151.06
Objections to Assessment Schedule 151.18
Obstruction of Enforcement 151.12
Obstructing View at Intersections 60.03.10
Open Burning Restrictions 105.05
Permission for Permanent Anchorage 151.07
Permit to Plant in Streets 151.13
Permit to Remove Trees for Construction Purposes 151.09
Planting New Trees; Assessment 151.15
Planting Restrictions 151.02
Protection During Excavation or Construction 151.10
Public Works Director 22.04
Schedule of Assessments 151.16
Tree Trim Specifications 151.11
Unauthorized Interference with Trees or Shrubs 151.05
Violations 151.22
Vision Clearance at Street Intersections 151.03
Yard Waste 105.11

CHAPTER OR SECTION NUMBER

TRESPASSING 40.03.01

TRUCK PARKING LIMITED 60.10.09

TRUCK ROUTES 60.07.05

TURNING REGULATIONS 60.05

URBAN RENEWAL 10

URBAN REVITALIZATION AREA 11

URINATING AND DEFECATING IN PUBLIC 40.02.10

UTILITIES
- Cable Television 113
- Electric 111
- Natural Gas 110
- Sewer Service System ..... 95 - 98 and 100 - 102
- Water Service System ..... 90 - 91

U-TURNS 60.05.02

UTVS, ATVS, AND SNOWMOBILES 60.12

VACANCIES IN OFFICE 5.11

VACANT PROPERTY REGISTRATION 182

VACATING STREETS OR ALLEYS 137

VETO
- Council May Override 17.03
- Mayor's Authority ..... 15.02(4)

VIOLATIONS
- Administration and Enforcement 181
- Building Code 155
- Cigarette and Tobacco Violations (Sale to Minors) 121.09
- Environmental 3.02
- Excavation of Public Property 135.11
- Illicit Discharge to Stormwater System 102.08
- Municipal Infractions 3
- Park Regulations 40.08.22
- Parking 60.11
- Pawnbrokers ..... 124.17(2)

CHAPTER OR SECTION NUMBER

VIOLATIONS (CONTINUED)
Property Maintenance and Rental Housing Code 156
Public Peace 40.01
Regulation of Industrial Wastewater and Commercial Wastewater 100.84
Solid Waste Control and Recycling ..... 105.09(5)
Special Penalties for Violation of Sanitary Sewer Regulations 95.09
Standard Penalty for Violation of Code of Ordinances 1.14
Temporary Structures 152
Traffic 60.03.01
Traffic Code Enforcement Procedures 60.11
Zoning Code - Temporary Use Structures 171.10

WARRANTS 1.12

WASTE STORAGE CONTAINERS 105.08

WASTEWATER SYSTEMS, ON-SITE 98

WATER POLLUTION ..... 50.02(3)

WATER SERVICE SYSTEM
Connections; General Regulations 90
Cross-Connection Control 91

WEAPONS 40.05
See also:
Discharging Weapons in City Limits 40.05.07
Taking Weapons During Arrest 30.11
Throwing and Shooting 40.05.07

WEEDS AND BRUSH ..... 50.02(9)

WINE
See Alcohol

YARD REQUIREMENTS
See Zoning ..... 168 - 175

YARD WASTE 105.11

YIELD REQUIRED 60.06

CHAPTER OR SECTION NUMBER

ZONING CODE

Administration and Procedures 177
Access and Parking 174
Definitions 166
Development and Design Standards 170
General Provisions 165
Landscaping and Screening Standards 173
Nonconforming Development 176
Overlay District 169
Sign Regulations 175
Supplemental Site Development Regulations 172
Temporary Use Structures 171
Use Types 167
Zoning Districts Regulations 168

CHAPTER OR SECTION NUMBER

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APPENDIX TO
CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The "OFFICIAL COPY" of the Code of Ordinances must be kept by the City Clerk and should be identified as the "OFFICIAL COPY."

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF _____ STREET

BE IT ENACTED by the City Council of the City of _____, 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 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. _____ Street, on the _____ side, from _____ Street to _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of _____, 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 _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.___ on the ___ day of _____, 20___.

_____
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, 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 99.01 of the Code of Ordinances of the City of _____, Iowa, is repealed and the following adopted in lieu thereof:

> **99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than $_____ dollars per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ___

AN ORDINANCE VACATING *(INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED)* TO _____, IOWA

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. The *(location or legal description of street or alley)* 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. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of _____, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of _____, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of _____, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of _____, Iowa

By: _____
(enforcement officer)

RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING

BE IT RESOLVED, by the City Council of the City of _____, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of _____, 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 _____, 20___, at _____ __m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

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 _____, 20___, on _____, (Name of Property Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as
_____
_____
_____
_____

to the public sanitary sewer located_____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____
(Name of Owner or Agent)
is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,
(Name of Owner or Agent)
fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property or owner

_____
(Owner's Name)
_____, as provided by law.
(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

CITY OF _____, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: _____ APPLICATION NO.: _____ FEE: _____

Applicant _____
Address _____
_____
Tel. No. (Bus.) _____ (Res.) _____

FOR OFFICE USE ONLY

____ FEE PAID
____ PLOT DIAGRAM SUBMITTED
____ PLAN SUBMITTED
____ APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS_____

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: _____
_____
_____

PRESENT USE: _____

PROPOSED USE: _____
_____

A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, *AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.*

****

I have read Chapter _____ of the Code of Ordinances of _____, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

_____
(Applicant's Signature)

CITY OF _____, IOWA

BUILDING/LAND USE PERMIT

PERMIT NO._____ _____ (Date)

APPLICATION NO._____ _____
(Date of Application)

LOCATION_____

****

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER ___, "BUILDING AND LAND USE REGULATIONS" OF THE CODE OF ORDINANCES OF _____, IOWA.

APPROVED BY COUNCIL _____ (Date)

****

THIS PERMIT ISSUED TO:

NAME: _____

ADDRESS: _____

_____

_____

_____
Signature of Building Official

CITY OF _____, IOWA

APPLICATION FOR A CERTIFICATE OF OCCUPANCY

DATE_____ APPLICATION NO._____

APPLICATION NO. OF BUILDING/LAND USE PERMIT _____

****

APPLICANT: _____
ADDRESS: _____
_____

TELEPHONE NO. (Business) _____
(Home) _____

****

_____
Signature of Applicant

_____
Signature of Building Official

CITY OF _____, IOWA

CERTIFICATE OF OCCUPANCY

NO._____ ☐ PERMANENT
☐ TEMPORARY

DATE: _____
C.O. APPLICATION NO._____ BUILDING/LAND USE PERMIT NO.____
DATE ISSUED: _____

LOCATION_____

****

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER _____ OF THE CODE OF ORDINANCES OF _____, IOWA, AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

****

THIS CERTIFICATE ISSUED TO:

NAME: _____
ADDRESS: _____
_____
_____

_____
Signature of Building Official

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Adam Plagge, City Administrator
Adam Strait, City Clerk

SUBJECT: Consideration of the Annual Fee Schedule Update

GENERAL INFORMATION

The City's Annual Fee Schedule is typically updated at the start of the calendar year. This year's fee schedule update was deferred until completion of the Code Update which contained several updates and references to the fee schedule. The 2027 Fee Schedule is anticipated to be established at the start of 2027.

The Annual Fee Schedule was overhauled in 2024 after several years of not being updated, updates to this year's Annual Fee Schedule are primarily associated with the updates to the City Ordinance or to better reflect costs incurred associated with the fee activity.

Changes include:

- Update of peddler fee to align with Code Update.
- Codifying in the fee schedule the new Traffic and Municipal Infraction sections fees previously cited in the City Code and establishing escalating fees.
- Minor revisions to negligent false alarm schedule and update of hazmat fees to reflect current Iowa Fire Service recommendations.
- Addition of the Waste Services sticker prices to the fee schedule.
- Consolidating language in the trade permit section, no changes made to fees.
- Inclusion of outside engineering costs to the preliminary site plan review and floodplain permit.
    - Incomplete submissions result in significant engineering costs being incurred by the city. This change is intended to recover these costs.
- Separation of Residential & Non-Residential Conditional Use Permit and Variance Requests.
    - Residential requests fees reduced to $200 to reflect the smaller workload typically associated with these. Non-residential requests fees increased from $400 to $450 and to better reflect workload.
- Establishment of a Dead or Diseased Tree Inspection at $150.

- This fee would be charged if an arborist is hired to make a tree hazard determination on private property but only if that determination affirms the tree is a hazard.

- Removal of Dance Hall Fees due to elimination of the Dance Hall Code Section.

Some adjoining jurisdictions are in the process of implementing fees for commercial businesses, primarily care facilities, that are requesting lifting assists. This has been discussed as a planned recommended fee policy change in Windsor Heights. However, since Windsor Heights FD lift assists would typically be outside city limits, staff is holding off on recommending any fee implementation until the policy is also in place in adjoining jurisdictions. Fees would not be applicable for residential properties.

ATTACHMENTS

1. Fee Schedule 2026 FINAL

City of Windsor Heights
Fee Schedule
Effective 7/1/2026



Public Safety

Reports, Copies, Digital Media, Tests & Releases, Permits

Copies - Public Records	Black/white $.05 per single page copy exceeding 5 pages Color $.50 per single page copy
Incident Report Or Call For Service (CFS)	No charge < 30 minutes to produce
Accident Report	$5
Media (Audio/Video)	Staff time, no charge < 30 minutes to produce $5 per 8GB Flash Drive, or actual cost for larger storage devices
Vehicle Impound Release	$20
Hourly Rate For Contract Staff Time Or City Staff Needed To Produce Or Review Documents	Actual cost of employee time if time involved exceeds 30 minutes
Fingerprinting Per Card	Two print cards: $10 Resident $20 non-resident. $10 for each additional card.
Mailing Or Shipping A Record	Billed at actual costs
Pet License	
Pet License – Spayed/Neutered	$20 per calendar year
Pet License – Not Spayed/Neutered	$30 per calendar year
Pet Unlicensed Delinquency Fee	Double original license fee (after April 1)
Disposition Of Impounded Animal Fee	$20 if not released from the pound or shelter
Duplicate License	$1
Permits	
Temporary Noise Permit Fee	$20 per day $40 for over one day through one week $75 permits over one week through one year
Peddler, Solicitor, Transient Merchant Fee	$20 application fee 1 day - $20 1 week - $50 1 month - $125 3 month - $250 $25 per each additional peddler, etc.
Traffic	
Violation Of Persons With Disabilities Parking	$100
Violation Of Street Parking During Snow Ordinance	$40 *$30 additional fee if not paid within 30 days
Violation Of No Parking Fire Lane	$50 *$5 additional fee if not paid within 30 days
All Other Parking Violations	$25 *$5 additional fee if not paid within 30 days
Municipal Infractions	
Habitual Offender	$35
Simple Misdemeanor For Which No Fee Is Specified	$50 for first offense $100 for second offense within one calendar year $200 for third and subsequent offenses in one calendar year

FIRE DEPARTMENT

Rental Fees

Rental Registration Fee (*Additional Inspection Fees Required To Be Paid At Time Of Registration)	$35 - Single Family $50 – Duplex $150 Apartment
Rental Inspection Fee	$100 Single Family Inspection $125 Duplex $150 Apartment - $22 per additional living unit beyond three If a property fails initial inspection, additional fees for the reinspection will apply and will be collected by the building inspector at the time of reinspection
Additional Fee If Owner Cannot Be Identified/Reached And City Must Research And Contact Current Tenant	$50
Fire Dept Plan Review	
The Windsor Heights Fire Department requires Fire Protection System plan reviews to be conducted by a third party. Fees for any required third party review are not included within the City fee schedule.	
Commercial/ Fire Code	
Initial Inspection/First Re-Inspection (Performed 30 Days After Initial Inspection)	$0
Second Re-Inspection (Performed 2 Weeks After First Re-Inspection)	$100
Third Re-Inspection (Performed 2 Weeks After Second Re-Inspection)	$200
Fourth Re-Inspection (Performed 2 Weeks After Third Re-Inspection)	$400
Fifth Re-Inspection (Performed 2 Weeks After Fourth Re-Inspection)	$800
Hazmat Fees	
Heavy Response Apparatus With 4 Personnel (Engine, Ladder, Heavy Rescue)	$377.42*
Light Response Apparatus With 2 Personnel (Tanker, Brush Truck, Ambulance, Staff Car)	$300.79*
Extra Response Personnel	$29.09
Expended Materials (Foam, Containment Booms, Sand, Absorbent, Etc.) And Equipment Repair And/Or cleaning	Replacement Cost including shipping for expended materials, Cost (parts and labor) to include shipping for equipment repair and/or cleaning
*Minimum of one hour. Billed in 15-minute increments beyond the first hour. This fee schedule is based on Iowa Fire Service Annual Hazardous Materials Responses Fee Structure	
Ambulance Fees	
Basic Life Support (BLS) – Non-Emergent	$590
Basic Life Support (BLS) - Emergent	$695
Advanced Life Support (ALS) Non-Emergent	$690
Advanced Life Support (ALS) – Emergent	$807
Advanced Life Support (ALS) Level 2	$1,065
Treat / No Transport	$277
Critical Care Transport	$1,254
Loaded Mileage Rate	$13.80
Oxygen	$30
Additional Attendant	$50

ALS Supplies	$50
BLS Supplies	$50
IV Supplies	$35
Intubation Supplies	$25
Medications	
▪ Nitrogen Tablet	$5
▪ Ativan/Lorazepam	$10
▪ Oral Glucose, Zofran Iv	$15
▪ Epinephrine, Fentanyl, Morphine Sulfate, Sodium Bicarbonage, Solu-Medrol, Versed	$20
▪ D50w/Dextrose Inj	$25
▪ Albuterol Noncompounded 1mg ▪ Narcan/Naloxone Per 1mg	$30
▪ Glucagon	$250
Nuisance Alarms	
False Alarms	$0 First and Second false alarm during a calendar year $75 Third false alarm within a calendar year $100 Fourth false alarm within a calendar year $150 Fifth and subsequent alarm within a calendar year The alarm company shall be assessed a fee of $100.00 by the City when the Police Department or Fire Department respond to a false alarm and it is determined by the City that an on-site employee of the alarm company directly caused the false alarm.
CITY HALL	
Copies	Black and White $.05 per single page copy in excess of 5 pages Color $.50 per single page copy
Hourly Rate For Contract Staff Time Or City Staff Needed To Produce Or Review Documents	Actual cost of employee time if time involved exceeds thirty (30) minutes
Media (audio/video)	$5 per 8GB
NSF Check Fee (All Departments)	$30
Special Council Meeting	$81 per Council Member
WASTE SERVICES	
Large Item Sticker	$5
Extra Bag Collection Sticker	$1
Yard Waste Sticker	$1.50

Building Permits	
Total Valuation	**FEE**
$1.00 to $500.00	$75
$501.00 to $2,000.00	$75 for the first $500 + $.2.75 for each additional $100.00 or fraction thereof, to and including $2,000
$2,001.00 to $25,000.00	$116.25 for the first $2,000 + $12.50 for each additional $1,000 or fraction thereof, to and including $25,000

$25,000.00 to $50,000.00	$391.25 for the first $25,000 + $9.00 foreach additional $1,000.00 or fraction thereof, to and including $50,000
$50,000.00 to $100,000.00	$616.25 for the first $50,000 + $6.25 foreach additional $1,000 or fraction thereof, to and including $100,000
$100,000.00 to $500,000.00	$928.75 for the first $100,000 + $5.00 foreach additional $1,000 or fraction thereof, to and including $500,000
$500,000.00 to $1,000,000.00	$2,928.75 for the first $500,000.00 + $4.25 for each additional $1,000 or fraction thereof, to and including $1,000,000
$1,000,000.00 and up	$5,053.75 for the first $1,000,000 + $2.75 for each additional $1,000 or fraction thereof
Re-inspection Fees	$42/hour (1-hour minimum)
Commercial Plan Review	65% of permit fee
Temporary Certificate of Occupancy	$250
Final Site Plan Review	$250 + 65% of total building permit fee
Fire Department Commercial Building Pre Plan Fee	$75
Trade Permits (Residential & Commercial)	
Mechanical, Plumbing, Electrical	Flat Fee $80
Work Without A Permit	Fee Doubled
Other	
Vacant Property Registration	$75 per property
Zoning Verification/Property Research	$110/hour
Rezoning	$400
Zoning Compliance	$110/hour
Home Occupation	$100
Preliminary Site Plan Review	$400 + Outside Engineering Costs
Residential Conditional Use Permit	$200
Non-Residential Conditional Use Permit	$450
Residential Appeal or Variance Request	$200
Non-Residential Appeal or Variance Request	$450
Fence Permit	$100
Grading/Cosesco Permit	$75
Floodplain Development Permit	$100 + Outside Engineering Costs
Pool Permit	$100
Signs	Basic Fee $100 + $1 per square foot
▪ Temporary signs	$25
Temporary Structure	
▪ Commercial	$50/month
▪ Residential	First 30 days- $0; Second 30 days- $20, Third 30 days- $40; thereafter- $20 per 30 day extension
Sidewalk / Driveway approach	$50
R-O-W Excavation	$100
Non-Franchise Utility License	$400
Demolition/Raze	$100

House Mover Permit	$100
Permits Or Inspections For Which No Fee Is Specified (block parties, other)	$40
Temporary Obstruction Permit	$40
Temporary Use	
▪ Maximum 4 days	$30
▪ Events longer than 4 days (produce stands, etc.)	$60
▪ Long-term food and beverage	$280
▪ Garden Centers and Large Structures	$60 plus $500 deposit, unless waived by Zoning Administrator
▪ Mobile Food Unit License	$75
▪ Mobile Food Unit Special Event Permit	Fee Set By City Administrator, if applicable

Code Enforcement

Nuisance Abatement	
Lot Mowing	$175/hour (1 hour minimum)
R-O-W Mowing	$100/hour (1 hour minimum)
Sidewalk Snow Removal	$1 per lineal foot; or minimum $100
Dead Or Diseased Tree Inspection	$150, assessed only if tree determined to be hazardous
Notice To Abate	$100
Re-Inspection	$100 per inspection
Administrative Hearing	$0
Preparation Of Abatement Warrant	$378
Abatement	Actual cost-plus 30%
Cost Of Imposing Lien	$82 plus County charge if any
Additional Staff Administrative Time Not Covered Above	$95/hour plus actual costs for code enforcement and $82/hour plus actual costs for finance employees

Community Center Rental Rates

	Non- Resident Rate	Non-Profit Rate (Proof will be required)	Resident Rate (Proof will be required)
Saturday 6 AM – Midnight	$2,800		
Weekend 6 PM Fri to 6 PM Sun	$5,600 Includes overnight storage; renters must still vacate from 12 AM-6AM each night		
1/3 Space Minimum 2 -hour rental	$130 per hour	$112 per hour	$91 per hour
2/3 Space Minimum 2-hour rental	$155 per hour	$132 per hour	$109 per hour
Full Space Minimum 2-hour rental	$210 per hour	$176 per hour	$147 per hour
Full Space 6 AM – Midnight	$2,800 Full day		

Cleaning Fees	At City's cost This fee is optional for Mon-Thurs rentals and non-optional for Fri-Sun rentals		
Pavilion 8-hour rental	$100	$75	$70
Pavilion 4-hour rental	$50	$37.50	$35

Resident/Non-Profit will be required to show proof of residency or non-profit status.

Down Payments

To confirm all reservations, a down payment of 50% and a signed agreement are required. Windsor Heights does not hold dates and all rentals are on a first come basis only. Down payments are non-refundable on any cancellation.

PARKS

BALL FIELD RENTALS

Ball Field rentals are available in full one hour increments only.

	Non-Resident Fee	Resident Fee (with ID)
Hourly	$25	$20

SPECIAL EVENTS PERMIT **$50**

Required on events hosted in the Community Center and Park, which are open to the public

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Andy Larson

SUBJECT: Consideration of FY27 ERP Purchase Mini Excavator

GENERAL INFORMATION

General Information:
The Public Works Department utilizes excavation equipment for a variety of maintenance and construction activities including utility repairs, stormwater infrastructure maintenance, sidewalk and trail repairs, street maintenance, park improvements, and other departmental operations. Currently, the department relies on rented equipment or contractor services for many excavation-related tasks, resulting in additional costs, scheduling limitations, and reduced operational flexibility. The acquisition of a mini excavator will provide Public Works staff with a versatile piece of equipment capable of performing a wide range of excavation and material handling tasks. The compact size of the equipment allows it to operate efficiently in confined spaces while minimizing disturbance to surrounding infrastructure all while being easily mobilized to job locations with existing City owned fleet vehicles and trailers.

The purchase of a mini excavator aligns with the department's ongoing efforts to improve operational efficiency and expand the ability to complete maintenance and construction projects with in-house staff. Benefits of the equipment include:

- Reduced dependence on equipment rentals and outside contractors.
- Increased responsiveness to utility and infrastructure repairs.
- Improved productivity for maintenance and improvement projects.
- Long-term cost savings through in-house project completion.

Staff anticipates being able to utilize the equipment throughout the year for road work system repairs, storm sewer maintenance, right-of-way improvements, park and trail projects, and other routine Public Works activities. Within the past month, the department has rented a machine to perform street repairs, parking lot repairs, and to install a storm sewer intake and pipe.

Staff solicited quotes from Star Equipment, Murphy Tractor and Equipment, Capital City Equipment Company, and Titan Machinery. Staff specifications of the machinery at the time quotes were solicited included the following:

- 8,000-10,000 pound machine weight (trailering purposes)
- 24” toothed bucket
- Thumb/Grapple attachment
- Basic enclosed cab package
- Quick coupler attachment option to have the ability to hydraulically run other attachments (breaker, plate compactor)

All dealers were responsive to the request made by staff and the tabulation of the quotes are listed below:

- Capital City Equipment Company - $58,530.69 (Sourcewell Contract)
- Star Equipment - $62,890.12 (Sourcewell Contract)
- Titan Machinery - $75,200.00
- Murphy Tractor - $78,000.00

Warranties across the board held steady and included end-to-end machine coverage for 2 years or 2,000 hours.

Financial Impact:
The Fiscal Year 2027 budget includes $65,000 within the Equipment Replacement Plan for the purchase of a mini excavator.

Recommendation:
The purchase of a mini excavator will provide the Public Works Department with a valuable and versatile asset that improves operational efficiency, enhances service delivery, and reduces long-term reliance on rented equipment and contracted services. Staff recommends the approval of the FY27 purchase of a mini excavator in the amount of $58,530.69 for a Bobcat E40 excavator from Capital City Equipment Company. This purchase was discussed at the last Public Works Committee meeting and unanimously supported to move forward for FY27.

ATTACHMENTS
1. Quotes - FY27 Excavator

Bobcat

Product Quotation
Quotation Number: **AU1841625**
Quote Sent Date: **May 28, 2026**
Expiration Date: **Jun 27, 2026**

Your Bobcat Contact
Alex Urlaub
Phone: −17012416372
Email: alex.urlaub@doosan.com

Your Customer Contact

Deliver to
City Of Windsor Hghts
1133 66TH ST
WINDSOR HEIGHTS, IA, 50324-1703

Bobcat Dealer
Matt Ross
Capital City Equipment Company, Des Moines, IA
5461 NW 2ND ST.
DES MOINES, IA, 50313-1333

Bill to
City Of Windsor Hghts
1133 66TH ST
WINDSOR HEIGHTS, IA, 50324-1703

Item Name	Item Number	Quantity	Price Each	Total
E40 R2-Series Bobcat Compact Excavator	M3415	1	46,836.35	46,836.35
Standard Equipment: 40.4 HP Turbocharged, Bobcat 1.8L, Tier 4 Diesel Engine, Non-DPF Auto Idle Auto-Shift, Two-Speed Travel Auxiliary Hydraulics with Selectable Flow w/ Arm Mounted Flush Face Quick Couplers Canopy Includes: Cup Holder, Retractable Seat Belt, Vinyl Suspension Seat Roll Over Protective Structure (ROPS) - Meets Requirements of ISO 12117-2: 2008 Tip Over Protective Structure (TOPS) - Meets Requirements of ISO 12117: 2000 Falling Object Protective Structure (FOPS) - Meets Requirements of ISO 10262:1998 Control Console Locks Control Pattern Selector Valve (ISO/STD) Standard Instrument Panel Dozer Blade with Float Engine/Hydraulic Monitor with Shutdown Fingertip Auxiliary Hydraulic Control Fingertip Boom Swing Control Horn Hydraulic Joystick Controls Keyed Ignition Lift Eye Long Arm Rubber Tracks Spark Arrestor Exhaust System Vandalism Protection LED Work Lights X-Change Attachment Mounting System Telematics with 2-year Machine IQ Basics Subscription +90-Day Machine IQ Health & Security Trial Warranty: 2 years, or 2000 hours whichever occurs first				
Cab Package	M3415-P11-C05	1	5,201.21	5,201.21
Included: Cab Package: Enclosed Cab with HVAC, Standard Instrument Panel, Keyed Ignition, Cloth Suspension Seat, Travel Motion Alarm,				
Hydraulic Clamp - X-Change - Long Arm - Class III w/ Diverter Valve	M3415-R08-C15	1	3,247.49	3,247.49
24" MX3 XCHG TEETH	7323530	1	1,283.64	1,283.64
	Total for E40 R2-Series Bobcat Compact Excavator			56,568.69

Quote Subtotal	56,568.69
Dealer PDI	200.00
Freight Charges	1,650.00
Destination Charges	112.00
Quote Total - USD	**58,530.69**

Comment: *Plus applicable taxes. IF Tax Exempt, please include Tax Exempt Certificate with the order.

*Prices per the Sourcewell Contract #020223-CEC

*Sourcewell Member Number (if applicable): _____

*All orders should include 1) Accounts Payable Contact and email address, 2) W9 with correct legal entity name, and 3) Bill to Address.

*Orders may be placed with the contract holder or authorized dealer as allowed by the terms and conditions of the contract. * A Copy of all orders must be provided to Heather.Messmer@Doosan.com.

*Contact Holder Information: Doosan Bobcat North America, Inc. Govt Sales, 250 E Beaton Drive, West Fargo, ND 58078. TID# 38-0425350.

*Payment Terms: Net 60 Days. Credit cards accepted.

*Remittance address: Doosan Bobcat North America, Inc. P. O. Box 74007382, Chicago, IL 60674-7382

Customer Acceptance:
Quotation Number: **AU1841625** Purchase Order: _____
Authorized Signature:

Print: _____ Sign: _____

Date: _____ Email: _____

Addresses
Delivery Address_____

Billing Address (if different from ship to): _____

Tax Exempt: Y ☐ / N ☐

Exempt in the State of: _____

Tax Exempt ID:

Federal: _____

State: _____

Expiration Date: _____

STAR EQUIPMENT, LTD.

CONSTRUCTION EQUIPMENT & SUPPLIES

Sales ★ Service ★ Rentals

ANDY LARSON
WINDSOR HEIGHTS, CITY OF
1133 66TH STREET
WINDSOR HEIGHTS, IA 50311
Ph # : 515-279-3662
Fax # :

Delivery Address:
WINDSOR HEIGHTS, CITY OF
1133 66TH STREET
WINDSOR HEIGHTS, IA 50311

Quote #: 31000781-1
5/28/2026 4:12:30 PM
Date Revised :5/28/2026 4:12:30 PM
E-Mail : ALARSON@WINDSORHEIGHTS.ORG

ANDY LARSON

Per your request Star is pleased to offer the following quotation for your review & approval:

QTY	MFG	ITEM NUMBER	DESCRIPTION	TYPE	PRICE	EXT. PRICE
1	***		New - Takeuchi TB240CR - ROPS/TOPS/FOPS canopy, Rubber or steel tracks, Travel alarm, Pattern change valve, Takeuchi Fleet Management with standard warranty, 17.1 gpm auxiliary hydraulics, Engine monitoring system, 11'4.4" Max Dig, 5'8.5" Width, 8,570#, Enclosed cab w/ AC/Heat, Defroster, slide back window with removable lower section, windshield wiper & washer, skylight w/ sunshade, radio, 12v power outlet, Quick Coupler, Hyd Thumb, BQC12524 - 24" Quick Coupler Bucket	New	61,340.12	61,340.12

QTY	INSTALLATION DESCRIPTION	LABOR EA.	LABOR EXT.
1	PDI	$ 600.00	$ 600.00

Ship Via : STAR SALES
Ship Wt : 0.000

Total Material:	$	61,340.12
Trade In:	$	- 0.00
Rent Credit:	$	- 0.00
Installation:	$	600.00
Freight:	$	950.00

Total Sell : $62,890.12

Terms :

- QUOTE VALID FOR 5 DAYS
- NET DUE ON DELIVERY
- SUBJECT TO PRIOR SALE AND AVAILABILITY
- FOB STAR EQUIPMENT
- SUBJECT TO CHANGE WITHOUT NOTICE

Quote Notes :
*** Pricing subject to the State of Iowa Master Agreement for Takeuchi ***

Sincerely,

Ben Hammann

Phone : 515-283-2215
Email : benhammann@starequip.com

Accepted By :

Customer P.O.# :

TITAN MACHINERY

2290 54th Ave NE
Des Moines, IA 50313
Phone 515-974-5100

Quotation Bid

Date: 5/29/2026

Attention:
Customer: City of Windsor Heights
Address:
City, ST, Zip:
Phone:

Quotation #:
Quotation Expires: 6/30/2026
Pending Availability
Sales Person: **Tyler Bartels**
Cell : 515-971-1481
E-mail: Tyler.Bartels@TitanMachinery.com

Qty.	Description	Tag #	Serial Number	Price
1	**Case CX50D**	TBD	TBD	$75,200.00
	CAB/HEAT/AIR, Air Ride Fabric Seat			
	LED Lights / LED Beacon			
	Rear Camera			
	Additional Counterweight			
	Standard Dozer Blade			
	HYD. Quick Coupler			
	24" Bucket			
	Hyd. Thumb			
	Long Arm			
			ADD:	
	Sales Tax Not Included-Subject to Availability			
			TOTAL:	$75,200.00

TRADE			
YR	**Description**	**SERIAL NO.**	**VALUE**

TERMS & CONDITIONS			
TERMS:		**TOTAL TRADE ALLOWANCE:**	
WARRANTY:		**TOTAL NET With TRADE:**	
FOB:		Sales Tax @ 0.00%	$0.00
EST. DELIVERY:		Freight:	
		NET QUOTATION:	$75,200.00

Thank you for your business

MURPHY
TRACTOR & EQUIPMENT CO.

JOHN DEERE

Prepared For

THE CITY OF WINDSOR HEIGHTS
WINDSOR HEIGHTS FIRE DEPT

1133 66TH ST

WINDSOR HEIGHTS, IA 503241703

(515) 279-9450

Prepared By

Wyatt Nelson

Murphy Tractor & Equipment

5087 E Broadway Ave

DES MOINES, IA 50317

515-346-9660

wnelson@murphytractor.com

Quote Id 2157606

Creation Date 28-May-2026

Expiration Date 27-Jun-2026

Quote Summary

Equipment Summary	Selling Price	QTY In Group	Extended
New 2024 JOHN DEERE DORF, 16" TRACKS, CAB, 5'7" 0180FF-1FF050PATRH003151	**$75,062.78**	1	**$75,062.78**
New JOHN DEERE BYT10980, 24" HD 5.2 CF BKT W/4 TEETH BYT10980-PXBU7FG001714	**$937.22**	1	**$937.22**
New 2022 JOHN DEERE BYT11748, 2 TINE, W/ CPLR, 24" BKT, HYD CLAMP KIT (NU) BYT11748	**$2,000.00**	1	**$2,000.00**
Equipment Total			**$78,000.00**

Quote Summary	
Total Selling Price	$78,000.00
Sub-total	**$78,000.00**
Balance Due	**$78,000.00**

Salesperson : X _____

Accepted By : X _____

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM:

SUBJECT: Mayor, Council Reports and Committee Updates, and Administration Reports

GENERAL INFORMATION

ATTACHMENTS
None

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM: Adam Plagge, City Administrator

SUBJECT: Senate File 2472 Property Tax Bill & Strategic Planning

GENERAL INFORMATION

While several aspects of the recently enacted SF 2472 property tax legislation remain unresolved, the law is expected to have significant fiscal implications for City operations over the coming years.

The most substantial impact results from the conversion of the state-funded Homestead Tax Credit ($4,850) to an expanded Homestead Tax Exemption ranging from $5,500 to $20,000. Beginning July 1, 2027, this change is projected to reduce annual General Fund revenues by approximately $80,000 to $150,000, depending on how the exemption is ultimately implemented. Overall non-TIF property tax revenues are expected to decline by approximately $150,000 to $250,000 annually.
In addition, the phased reduction of the School Levy by $0.50 through FY29 is anticipated to decrease TIF revenues by roughly $35,000 per year. While the City will likely retain the ability to offset a portion of General Fund revenue losses through the strategic release of TIF valuation, declining TIF revenues could limit funding capacity for future capital improvement projects.

The elimination of state backfill payments is expected to have a comparatively minor impact, estimated at less than $2,500 annually. Partially offsetting these reductions, the reestablishment of the multi-family residential assessment class is projected to increase General Fund property tax revenues by approximately $21,000 per year.

When considered collectively with other recent property tax changes, including the expanded 65+ property tax exemption, the 2% revenue growth limitation, and the General Fund levy cap of $8.10 scheduled to take effect in 2031, these reforms represent a meaningful long-term constraint on the City's ability to fund operations and capital improvements.

Several significant policy and operational decisions are expected to converge in late summer and early fall, including the City's application for the 2026 73rd Street BUILD Grant, completion of

the Joint Fire and EMS Study, and evaluation of the Police Department's recently implemented scheduling changes.

In anticipation of these developments, Administration has recommended to the Personnel and Finance Committee undertaking a facilitated strategic planning process prior to the start of the FY28 budget cycle. Such an effort would provide an opportunity for elected officials to further clarify long-term priorities, evaluate service and capital investment objectives, and direct further analysis of potential operational and financial adjustments.

Establishing a clear consensus on priorities will help guide staff as they evaluate operational changes and resource allocation decisions in the coming years. The process would also provide valuable direction leading into the planned FY27 Comprehensive Plan update.

Administration has requested strategic planning facilitation proposals from Confluence and On Point Strategies, both of which have experience working with metro-area municipalities. Evaluation of these proposals, along with consideration of other potential firms and discussion regarding the preferred format for the planning process, will occur at an upcoming Personnel and Finance Committee meeting.

ATTACHMENTS

None

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM:

SUBJECT: Minutes of the Public Works Committee on June 4, 2026

GENERAL INFORMATION

ATTACHMENTS

1. Public Works Committee Minutes 06.04.26

Public Works Committee

6/4/26 Minutes

1. Staff updated the committee that the property owner of 7701 College Ave. had requested to attend the next committee meeting to discuss their driveway access. The property was not in attendance so this item was passed on.

2. Staff updated the Committee that the 68th Street Reconstruction project contractor had agreed to replace the curblines, an open house is scheduled for next Monday 6/8/26 at the CEC and that sodding will take place this fall. Negotiations are continuing over warranty length.

3. Staff provided the history on having an excavator and the purpose of obtaining one based on current operations. Reviewed recent rentals of excavator for curblines, 64th st. and parking lot replacements. Jason met with dealers and discussed requirements which included a quick coupler, baseline package and grappler to solicit quotes. All dealers were responsive and the low bid was Capital City Equipment at $58,530.69. Staff recommended moving forward with the acquisition early FY27 to utilize it during the latter half of the summer. Discussion on recent rental costs and that this occurs from multiple sources and typically for a longer timeframe when projects are grouped together. Committee discussion on whether this is a want or need, discussion on how this builds self-reliance and expands work staff can do instead of contracting with outside parties. Example of Wilshire stormwater C/O versus current PW stormwater project on 64th. Discussion on how to fund the equipment; combination of RUT/SW/LOST. Committee recommended approval, 2-0.

4. Committee discussed stormwater issue on 65th. General consensus there was some preexisting issues but the issue has also potential be exasperated and it would be good for all three parties to participate in a solution when one is best identified.

5. Committee recommendation stage 2 to noon to six, unless special events. Collectively communicate with residents.

6. Staff provided brief update on 905 64th St. fence issue as there was another minor recent issue. No action recommended.

7. Staff provided update that equipment operator Jared has taken a new opportunity outside municipal employment. His last day will be tomorrow 6/5/26. Summer help started this week.

8. Staff provided an update that the town home association adjacent to public works has declined to advance the property acquisition of their SW corner.
9. Staff provided an update the new asset management system that localizes schedules and maps assets and provides records management is going live at the start of the fiscal year.

Council Member Skeries noted a sidewalk panel on 69th St. needs addressed. Two residents also expressed concern about bike trail at Hickman getting a lot of debris. Staff will bring this up to Urbandale again.

STAFF REPORT
CITY COUNCIL
June 15, 2026

TO: CITY COUNCIL

FROM:

SUBJECT: Minutes of the Public Art Committee on June 9th, 2026

GENERAL INFORMATION

ATTACHMENTS

1. 6.9.26 Public Art Committee Minutes

AGENDA

Communications & Art Committee
Tuesday, June 9, 2026 - 4:00 PM
WINDSOR HEIGHTS CITY HALL - 1145 66th ST STE 1

1. Call to Order

   The meeting was called to order at 4:30PM. In attendance was Mayor Mike Jones, Councilor Threase Harms, Councilor Lauren Campbell, City Administrator Adam Plagge, City Clerk Adam Strait, Committee Members: Michaela Schnetter and Kurt Bowermaster, Community Members: LeAnn Thongvanh, Chris Panzi, and Liz Lidgett

2. Action Items:

   A. Consideration of Dinner Dispatch Mural Finalist Selection

   Liz Lidgett led the committee through a review of submissions received for the Dinner Dispatch mural project, which will be installed on the west wall along 66th Street at 6587 University Avenue. Liz noted that the project received 54 submissions, one of the largest response rates she has seen for a mural opportunity. She attributed the strong interest to the City's commitment to providing fair compensation for artists, which was frequently mentioned by applicants. Liz outlined the selection process, explaining that the committee's goal was to narrow the field to a small group of finalists who would receive feedback and develop more detailed concepts for future consideration. All applicants not selected would be notified and thanked for their submissions.

   The committee reviewed each submission, discussing artistic style, mural experience, community relevance, and how well the concepts reflected Windsor Heights and the City's motto, “The Heart of It All.” Members expressed a preference for concepts that incorporated recognizable Windsor Heights elements and conveyed a sense of community identity rather than imagery that could be associated with any city. Throughout the discussion, committee members evaluated the strengths and weaknesses of each proposal, including artistic execution, originality, local connections, and opportunities for community engagement.

   As the field was narrowed, the committee discussed several leading candidates in greater detail. Members expressed interest in concepts that highlighted community character, neighborhoods, parks, trails, historic homes, and other features unique to Windsor Heights. Feedback for finalists included incorporating the City's official motto, utilizing branding colors where appropriate, and refining concepts to more

clearly represent Windsor Heights. The committee also emphasized the importance of selecting finalists with varied artistic styles and perspectives.

Following discussion, the committee reached consensus to invite the following artists to advance to the next phase of the selection process and submit updated concept sketches incorporating committee feedback:

1. Heather Hansen

Heather Hansen Concept:



2. Impact Art



3. Samantha Hutzel

Samantha Hutzell Concept:



4. Scarce Elements Crew

Scarce Elementz Concept:



The committee agreed that these finalists offered a diverse range of artistic approaches and would provide strong options for the final mural selection. Liz will provide feedback to each finalist and coordinate the next round of concept development for committee review. Liz will also provide individualized feedback to non-finalist artist after the select finalists accept moving forward.

B. Consideration of Bravo/Icon Public Art Grant Program Submission

City Administrator Adam Plagge presented information regarding a potential application for the Bravo/ICON Public Art Grant Program to support a public art installation at the City's new water access site. Adam explained that the program could provide up to $50,000 in funding, covering approximately 75% of project costs, with the City responsible for the remaining local match. He noted that the funding is expected to be a one-time opportunity and is identified as a potential funding source for a project included in the Public Art Plan.

Liz Lidgett provided additional information about the grant program, noting that funding will not be replenished once exhausted. She explained that the grant could support features such as gateway elements, archways, or smaller-scale sculptures at the water access site. Committee members discussed possible concepts and the required local match, expressing support for pursuing the grant opportunity while funding remains available.

The committee reached consensus to support submitting an application for the Bravo/ICON Public Art Grant Program and encouraged staff to continue exploring project concepts and potential funding sources for the required match. One possible opportunity is if the City receives the Prairie Meadows Grant for the mural project, this would free up a portion of the city match intended for the mural project. Plagge will prepare a resolution for Council approval this summer, the application window is anticipated to open around August.

3. Adjourn

The meeting was adjourned at 5:16PM.