CODE OF ORDINANCES

OF THE

CITY OF

GUTTENBERG, IOWA

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CODE OF ORDINANCES
OF THE
CITY OF GUTTENBERG, IOWA, 2006

Adopted December 4, 2006, by Ordinance No. 491-06

SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Dec-06	111.05; 111.06	490-06	12-4-06	Electric Rates; Automatic Rate Adjustment
		491-06	12-4-06	Adopts 2006 Code of Ordinances
Mar-07	Ch. 137	492-07	3-5-07	Street Vacation
	Ch. 165	493-07	3-5-07	Rezoning from A-1 to R-1
	55.08	494-07	3-5-07	Annoyance or Disturbance
Apr-07	Ch. 165; 136.03; 136.20	495-07	4-2-07	Canopies and Balconies as Special Exception in C-2 District; Removal of Snow and Ice
	60.02(1); 69.10(1); 69.14	496-07	4-2-07	Define Business District; Truck and Trailer Parking
Jun-07	Ch. 165	497-07	5-7-07	Rezoning from C-1 to R-1
	92.02	498-07	5-7-07	Water Rates
	Ch. 137	499-07	5-22-07	Street Vacation
	Ch. 165	500-07	5-22-07	C-1 Special Exception
	105.05(6, 8, 9)	501-07	6-4-07	Open Burning
	Ch. 51	502-07	6-4-07	Junk and Damaged Vehicles
Jan-08	Ch. 165	503-07	10-1-07	Change Zoning Ordinance Restriction
	Ch. 127; Ch. 165	504-07	10-1-07	Sexually Oriented Businesses; Permitted Use in M-1 and M-2
	17.03(1)	505-07	11-5-07	Action by Council
		506-07		On Hold
	63.04(2)(C); 63.04(3)	507-07	12-3-07	Special Speed Zones
	Ch. 165	508-07	12-17-07	Rezoning from R-2 to R-3
	69.11—69.15	509-07	12-17-07	Winter Parking
Apr-08	Ch. 137	510-08	3-3-08	Vacation of Streets and Alleys
	92.02; 99.02–99.04; 111.05	511-08	3-17-08	Water, Sewer and Electric Rates
	Ch. 100	512-08	3-17-08	Storm Water Drainage System Utility
Sep-08	Ch. 165	513-08	6-16-08	Rezoning from R-2 to C-1
	Ch. 165	514-08	8-4-08	Reclassify Public Garages and Storage Garages as Special Exception in C-2
Dec-08		515-08		Temporary Ordinance
	111.07(8)	516-08	11-3-08	Disconnect Notice Fee
	Ch. 137	517-08	11-17-08	Street Vacation
	Ch. 24; 25; 29	518-08	11-17-08	Park Board; Recreation Board; Cemetery Board

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Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Jan-09	105.12	519-08	12-1-08	Construction Dumpsters
	Ch. 137	520-08	12-15-08	Vacation of Portion of Public Square
	Ch. 8	521-08	12-15-08	2008 Addition to the Guttenberg Urban Renewal Area
May 09	Not Codified	522-09		
	92.02; 99.02; 100.04; 111.05	523-09	4-6-09	Water, Sewer, Storm Sewer, and Electric Rates
Aug-09	Ch. 137	524-09	5-4-09	Street Vacation
	Ch. 165	525-09	8-3-09	Rezoning from C-2 to R-3
	Ch. 165	526-09	8-3-09	Off-Street Parking in C-2 District
Dec-09	7.09; 137.05	527-09	10-19-09	Disposal of Real Property
	1.14; 3.04; 70.03; 80.02	528-09	11-16-09	Standard Penalty; Municipal Infractions; Parking Violations: Alternate; Abandoned Vehicles
	166.11(3)(S); 166.20	529-09	11-16-09	Sidewalks in Subdivisions
Jan-10	Ch. 165	530-09	12-7-09	Zero Lot Line Townhouses as R-1, R-2, R-3 Special Exception
	166.13(1); 166.14(1 and 2); 166.15(1)	531-09	12-7-09	Subdivision Regulations
	126.01; 126.03	532-09	12-21-09	Hotel/Motel Tax
Feb-10	92.02; 99.02; 100.04	533-10	2-1-10	Water and Sewer Rates; Storm Sewer Fee
Apr-10	36.15	534-10	2-15-10	Guttenberg Firefighter Association
	Ch. 165	535-10	4-5-10	Rezoning from A-1 to C-1
Aug-10	Ch. 165	536-10	5-3-10	Adding Annexed Property to A-1
	111.05	537-10	7-19-10	Electric Rates
Sep-10	93.01	538-10	8-17-10	Public Water Wells
Mar-11	Ch. 137	539-11	1-4-11	Street Vacation
	62.12	540-11	2-15-11	Engine and Compression Brakes
	Ch. 137	541-11	2-15-11	Street Vacation
	3.04	542-11	2-15-11	Municipal Infractions
Apr-11	160.02(11A); 160.03; 160.25	543-11	3-7-11	Flood Plain Regulations
Jul-11	92.02	544-11	5-2-11	Water Rates
	111.05(3)	545-11	5-18-11	Electric Rates - Industrial
	136.21	546-11	6-6-11	Outdoor Restaurant Seating License
Aug-11	Ch. 137	547-11	7-5-11	Street Vacation
	47.05(1)(C); 47.05(4); 55.01(3)	548-11	7-5-11	Riverfront Park Leash Law; At Large Definition
	7.09; 137.05	549-11	7-5-11	Disposal of City Real Property
	Ch. 111	550-11	7-5-11	Electric Utility
Dec-11	111.05	551-11	10-3-11	Electric Rates
	166.06(4)	552-11	11-7-11	Sale of Lots
	15.03; 17.05	553-11	11-7-11	Mayor and Council Appointments

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Jan-12	56.03	554-12	1-9-12	Delinquency Penalty
May-12	151.06	555-12	5-7-12	Tree Inspection and Removal
Jul-12	24.01; 24.02; 24.06	556-12	6-4-12	Park Board
	Ch. 137	557-12	7-2-12	Street Vacation
Sep-12	Ch. 165	558-12	9-10-12	Rezoning from R-2 to R-3
	92.05(2); 92.07; 99.06; 100.06; 106.09	559-12	9-10-12	Service Discontinued; Lien Exemption
	50.12	560-12	9-10-12	Installment Payment of Cost of Abatement
	120.05(8)	561-12	9-10-12	Prohibited Sales and Acts
	92.02; 99.02	562-12	9-10-12	Water and Sewer Rates
	Ch. 161; Ch. 165	563-12	9-10-12	Recreational Vehicle Park Regulations
Oct-12	Ch. 165	564-12	10-1-12	Rezoning from R-2 to R-1
	111.06	565-12	10-1-12	Insufficient Funds Charge
Dec-12	Ch. 137	566-12	12-10-12	Street Vacation
Jun-13	Ch. 137	567-13	3-4-13	Vacation of Alley
	99.02; 100.04	568-13	5-29-13	Sewer and Storm Sewer Rates
	Ch. 165	569-13	6-3-13	Rezoning from M-2 to C-1
	Ch. 165	570-13	6-3-13	Rezoning from R-2 to M-2
Oct-13	41.13	571-13	9-9-13	Removal of an Officer's Communication or Control Device
	92.07	572-13	9-9-13	Lien Exemption
Jan-14	Ch. 165	573-13	10-7-13	Adding Special Exception to R-3
	Ch. 165	574-13	10-7-13	Rezoning from R-2 to C-1
	Ch. 137	575-13	12-2-13	Alley Vacation
May-14	92.02; 99.02	576-14	5-5-14	Water and Sewer Rates
Aug-14	Ch. 165	577-14	8-4-14	Zoning
	92.02; 99.02	578-14	8-4-14	Water and Sewer Rates
Oct-14	Ch. 74	579-14	9-8-14	Golf Carts
Nov-14	5.10; 18.12	580-14	11-3-14	Vacancies; Elections
	45.01	581-14	11-3-14	Persons Under Legal Age and Social Host
	46.02; 121.01; 121.02; 121.07; 121.08	582-14	11-3-14	Vapor Products and Alternative Nicotine Products
Feb-15	Ch. 141	583-15	1-5-15	Mailboxes
Mar-15	24.02; 24.03; 24.06	584-15	2-2-15	Park Board
Apr-15	92.02; 92.09; 99.02; 100.04	585-15	4-6-15	Water and Sewer and Storm Sewer Rates
Aug-15	Ch. 165	586-15	7-6-15	Accessory Uses and Structures
Oct-15	74.03	587-15	8-3-15	Riding on Golf Carts
	40.03(8)	588-15	9-14-15	Funeral or Memorial Service
	81.02	589-15	9-14-15	Railroad Warning Signals
	120.06	590-15	9-14-15	Amusement Devices

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Nov-15	7.09(3)	591-15	10-5-15	Administrative Fee
	Ch. 167	592-15	10-5-15	Plats of Survey
Jan-16	Ch. 165	593-16	1-4-16	Rezoning from M-2 to C-1
Feb-16	111.04(2)(F)	594-16	2-1-16	Electric Utility
	28.03(1); 28.03(3)	595-16	2-1-16	Historic Preservation Commission
	26.06(Introductory paragraph)	596-16	2-1-16	Riverfront Advisory Board
Apr-16	Ch. 137	597-16	2-8-16	Vacation of Utility Easement
	29.07	598-16	3-7-16	Perpetual Care Cemetery
May-16	92.02; 99.02	599-16	4-4-16	Water and Sewer Rates
Jul-16	Ch. 165	600-16	6-27-16	Rezoning from R-3 to C-2
Aug-16	123.06	601-16	7-11-16	House Movers Permit Fees
	122.05	602-16	7-11-16	Peddlers, Solicitors and Transient Merchant License Fees
	135.09(11)	603-16	7-11-16	Excavating Permit Fees
	Ch. 165	604-16	7-11-16	Zoning Administrative Fee Schedule
Oct-16	Ch. 137	605-16	9-12-16	Vacation
	92.07(4)	606-16	9-12-16	Lien Exemption
Jan-17	57.01(L)(5) and (6); 57.03	607-17	1-9-17	Dangerous and Vicious Animals
May-17	Ch. 165	608-17	2-6-17	Rezoning from R-2 to C-1
	29.07(2)	609-17	3-6-17	Operating a Perpetual Care Cemetery
	92.02; 99.02	610-17	4-3-17	Water Rates; Sewer Rates
Jun-17	122.10	611-17	5-22-17	Peddler's and Solicitor's
Jul-17	74.06	612-17	6-5-17	Golf Carts
Sep-17	Ch. 75	613-17	9-11-17	All-Terrain Vehicles, UTV and Snowmobiles
	41.12	614-17	9-11-17	Fireworks
	121.01(3); 121.05	615-17	9-11-17	Cigarette and Tobacco Permits
	92.05	616-17	9-11-17	Water Service Discontinued
Oct-17	15.04; 17.06	617-17	10-2-17	Mayor and Council Compensation
	105.05(4-5)	618-17	10-2-17	Open Burning
Nov-17	92.02; 99.02	619-17	11-6-17	Water and Sewer Rates
	1.14	620-17	11-6-17	Standard Penalty
	28.03	621-17	11-6-17	Structure of Commission
Jan-18	17.04(1)	622-18	1-8-18	Council Meeting Regulations
Feb-18	111.05(2)	623-18	2-12-18	Electric Rates
Jun-18	92.04(3); 100.05	624-18	5-14-18	Late Payment Penalties
	74.11(3)	625-18	5-14-18	Golf Cart Permit Fees
Jul-18	Ch. 165	626-18	6-11-18	Mobile Vendors
	Ch. 165	627-18	7-9-18	Watchmen Dwelling Units; Solar Collectors; Rental Storage Units
	Ch. 48	628-18	7-9-18	Noise Control
Aug-18	Ch. 24	629-18	8-13-18	Park Board
Oct-18	165.47	630-18	10-8-18	Bluff Protection Area

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Dec-18	Ch. 137	631-18	12-10-18	Alley Vacation
	7.09(7 and 10)	632-18	12-10-18	Disposal of Real Property
Jan-19	Ch. 137	633-19	1-14-19	Alley Vacation
	Ch. 137	634-19	1-14-19	Alley Vacation
Feb-19	Ch. 128	635-19	2-11-19	Mobile Food Vendors
May-19	92.10; 99.08; 111.05(1)(C); 111.05(2); 111.08; 111.09	636-19	4-8-19	Water Rates; Sewer Rates; Electric Rates; Electric Regulations
Aug-19	Ch. 165; 165.10	637-19	6-10-19	M-1(A) – Industrial Park – District A; Rezoning from M-1 to M-1(A)
	Ch. 165	638-19	6-10-19	Rezoning from C-2 to R-3
	28.03(1)	639-19	7-8-19	Historic Preservation Commission
	Ch. 137	640-19	7-8-19	Street Vacation
	Ch. 146	641-19	7-8-19	Demolition of Buildings
Nov-19	Ch. 165	642-19	9-9-19	Automotive Display, Sales, and Service
	165.03(46, 84, 86-88)	643-19	9-9-19	Solar Collectors
	Ch. 165	644-19	9-9-19	Rezoning from C-2 to R-3
	136.12; 136.20; 165.03(8-9, 22); 165.10(4); 165.48	645-19	9-9-19	Awnings, Canopies, and Balconies
	7.05	646-19	9-9-19	Operating Budget Preparation
	105.02(24, 26)	647-19	9-9-19	Solid Waste Control
	5.07(10-12)	648-19	9-9-19	Conflict of Interest
	Ch. 137	649-19	10-14-19	Right-of-Way Vacation
Dec-19	105.03(2); 106.04	650-19	11-12-19	Solid Waste Regulations
Feb-20	111.06; 111.07	651-19	12-9-19	Electric Fees and Line Extensions
	Ch. 165; C-2 District Table	652-20	1-13-20	Ground Floor Residential Use
	C-1, C-2, M-1 District Tables	653-20	1-13-20	District Regulations
	100.04	654-20	1-13-20	Storm Water Fees
	91.01; 92.05(4); 92.09	655-20	1-13-20	Water Fees
Mar-20	Ch. 165	656-20	2-10-20	Rezoning from R-2 to C-1
Aug-20	Ch. 160	657-20	3-9-20	Flood Plain Regulations
	Ch. 128	658-20	3-9-20	Mobile Food Vendors
	Ch. 137	659-20	5-11-20	Street Vacation
	47.05(4); 55.01(3); 55.01(8); 55.06; 55.08; 55.09	660-20	6-8-20	Animal Protection and Control Regulations
	135.07	661-20	6-8-20	Washing Vehicles
		662-20		In Process
	160.11(1)	663-20	7-13-20	Flood Plain Regulations
Nov-20	69.12; 69.16	662-20	11-9-20	Parking Regulations
	46.02; 55.16; 55.17; 62.01(17); 121.07; 126.02	664-20	10-12-20	Tobacco Permits; Animal Control; General Traffic; Hotel Motel Tax
Apr-21	Ch. 165	665-21	4-12-21	Rezoning from C-1 to R-1

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May-21	161.02(2)(B)	666-21	5-10-21	Recreational Vehicle Park Requirements
	Ch. 165	667-21	5-10-21	Bed and Breakfast Uses
Aug-21	Ch. 165	668-21	7-12-21	Rezoning from R-3 to C-2
	Ch. 165	669-21	7-12-21	Rezoning from M-2 to R-2
	Ch. 137	670-21	7-12-21	Street Vacation
Sep-21	Ch. 75	671-21	8-9-21	ATVs, UTVs, and Snowmobiles
	Ch. 137	672-21	8-9-21	Street and Alley Vacation
	Ch. 165	673-21	9-13-21	Rezoning from R-2 to C-1
	122.18(7)	674-21	9-13-21	Peddlers, Solicitors, and Transient Merchants
	40.03; 40.04	675-21	9-13-21	Public Disorder
	62.01(146-147)	676-21	9-13-21	Low Speed Electric Bicycles; Fully Controlled-Access Facilities
	80.03; 80.04	677-21	9-13-21	Abandoned Vehicles
	120.05(2)	678-21	9-13-21	Alcoholic Beverage Control
	41.14	679-21	9-13-21	Failure to Assist
	41.05	680-21	9-13-21	Interference With Official Acts
Oct-21	Ch. 137	681-21	10-11-21	Alley Vacation
	Ch. 165	682-21	10-11-21	Rezoning from R-3 to C-2
	Ch. 137	683-21	10-11-21	Street and Alley Vacation
	111.04(2)(B)	684-21	10-11-21	Electric Utility Regulations
Nov-21	55.18	685-21	11-8-21	Animal Protection and Control
Jan-22	Ch. 137	686-21	12-13-21	Street and Alley Vacation
Mar-22	Ch. 137	687-22	3-14-22	Right-of-Way Vacation
Aug-22	74.04	688-22	8-8-22	Golf Cart Regulations
	63.04(2)(G); 63.04(2)(D)	689-22	8-8-22	Speed Regulations
Sep-22		690-22		In Process
	Ch. 162	691-22	9-12-22	Temporary Portable Storage Containers
	75.02(3); 75.06; 75.10	692-22	9-12-22	All-Terrain Vehicles
	45.01; 45.02(2); 120.03; 120.04; 120.05; 120.06	693-22	9-12-22	Alcoholic Beverage Control
	Ch. 156	694-22	9-12-22	Construction Site Erosion and Sediment Control
Oct-22	Ch. 8	690-22	10-10-22	2022 Guttenberg Urban Renewal Area
	165.31	695-22	10-10-22	Construction Compliance Certificate Fees
	111.05(2)	696-22	10-10-22	Electric Rates
	124.01; 124.02; 124.03	697-22	10-10-22	Special Events
Nov-22	69.12	698-22	11-14-22	Parking Regulations
Jan-23	69.17	699-22	12-12-22	Parking

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Feb-23	165.10	700-23	1-9-23	Yard Requirements
	Ch. 137	701-23	2-13-23	Street Vacation
	7.09	702-23	2-13-23	Disposal of City Real Property Policy
Mar-23	Ch. 114	703-23	3-13-23	Franchise Fee on Energy Providers
Jun-23	105.11(4)	704-23	6-12-23	Solid Waste Control
Aug-23	69.18	705-23	8-14-23	Parking Regulations
Oct-23	7.05; 7.08	706-23	10-9-23	Fiscal Management
	120.04; 120.05; 121.05	707-23	10-9-23	Liquor Licenses and Cigarette and Tobacco Permits
Mar-24	111.05(2)	708-24	3-11-24	Electric Rates
	Ch. 165	709-24	2-12-24	Rezoning from C-1 to R-2
	Ch. 165	710-24	2-12-24	Rezoning from R-3 to C-2
Jun-24	92.02; 92.10; 99.02; 99.08	711-24	5-13-24	Water Rates and Sewer Rates
	Ch. 165	712-24	5-13-24	Rezoning from C-2 and R-2 to R-3
Aug-24	Ch. 137	713-24	6-10-24	Street Vacation
Sep-24	Ch. 137	714-24	9-9-24	Street Vacation
		715-24		In Process
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	5.02	717-24	9-9-24	Bond Requirements
	5.06	718-24	9-9-24	Electronic Meetings
	36.14	719-24	9-9-24	Authority to Cite Violations
	7.05(4)	720-24	9-9-24	Operating Budget Preparation
	60.02; 65.05	721-24	9-9-24	Pedestrians' Right-of-Way
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Oct-24	Ch. 115	715-24	9-9-24	Electric Franchise Transmission System
	57.01(1)(L)	723-24	10-14-24	Dangerous and Vicious Animals
Jan-25	166.12	724-24	11-4-24	Subdivision Regulations
	Ch. 115	725-24	12-23-24	Electric Franchise (Transmission System)
Apr-25	Ch. 165	726-25	4-14-25	Rezoning from C-1 to C-1
Aug-25	Ch. 137	727-25	5-12-25	Alley Vacation
	Ch. 165	728-25	7-14-25	Rezoning from M-1 to C-2
Oct-25	Ch. 110	729-25	9-8-25	Natural Gas Franchise
	Ch. 165	730-25	9-8-25	Rezoning from M-1 to C-1
	69.13(1); 69.13(2)A); 69.13(2)(H)	731-25	10-13-25	Snow Removal
Dec-25	Ch. 165; 165.10	732-25	11-10-25	C-1(A) Highway Commercial – District A
Jan-26	165.10	733-25	1-12-26	Residential Uses Under Principal Uses and Structures in C-2 District
	Ch. 165	734-25	12-8-25	Rezoning from C-1 to C-1A

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Jan-26 (Cont.)	Ch. 165	735-25	12-8-25	Rezoning from M-1 to C-1A
	Ch. 121	736-26	1-12-26	Cigarette and Tobacco Permits
	5.07(1)	737-26	1-12-26	Conflict of Interest
	41.12(3)	738-26	1-12-26	Fireworks
	120.05(8)	739-26	1-12-26	Liquor Licenses and Wine and Beer Permits
	165.44	740-26	1-12-26	Public Hearing Requirements – Zoning
	7.05(4)(D)(1); 7.05(6)	741-26	1-12-26	Public Hearing Requirements
	55.19	742-26	1-12-26	False Representation of Service Animals
May-26	Ch. 165	743-26	4-13-26	Rezoning from R-2 to C-2
	23.01	744-26	4-13-26	Planning and Zoning Commission

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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 Warrants
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 Guttenberg, Iowa, 2006.

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

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

2. "City" means the City of Guttenberg, Iowa.

3. "Clerk" means the city clerk of Guttenberg, Iowa, and may include the combined offices of City Manager, City Clerk and City Treasurer for the City of Guttenberg, Iowa.

4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).

5. "Code of Ordinances" means the Code of Ordinances of the City of Guttenberg, Iowa, 2006.

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

7. "County" means Clayton County, Iowa.

8. "May" confers a power.

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

10. "Must" states a requirement.

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

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

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

1.07 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances,

the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of this Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to only a monetary fine as provided for a misdemeanor violation under Iowa Code Section 903.1, subsection 1, paragraph "a". ***(Ord. 620-17 – Nov. 17 Supp.)***

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

[The next page is 9]

CHAPTER 2

CHARTER

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE**: Ordinance No. 171-74 adopting a charter for the City was passed and approved by the Council on April 1, 1974, and was published on April 17, 1974. The ordinance was amended by an election held April 12, 1988, changing from two-year terms to four-year terms.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties
3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

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

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

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

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

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

1. Standard Civil Penalties.

   A. First Offense – Not to exceed $750.00

   B. Each Repeat Offense – Not to exceed $1,000.00

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

2. Special Civil Penalties.

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

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

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

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

      (3) The violation does not continue in existence for more than eight (8) hours.

3.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. 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.

(Ord. 542-11 – Mar. 11 Supp.)

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

C. Members of all boards, commissions or bodies created by law.

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer, and such other officers and employees as may be necessary and advisable 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)
(Section 5.02 – Ord. 717-24 – Sep. 24 Supp.)

5.03 DUTIES: GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and this Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13[4])

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records which are combined with data processing software shall be in accordance with policies and procedures established by the City.
(Code of Iowa, Sec. 22.2 and 22.3A)

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in the officer's custody and appertaining to that office.
(Code of Iowa, Sec. 372.13[4])

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

1. 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 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)

(Section 5.06 – Ord. 718-24 – Sep. 24 Supp.)

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

(Code of Iowa, Sec. 362.5)

1. Compensation of Officers. The payment of lawful compensation of a City officer, 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))

(Subsection 1 – Ord. 737-26 – Jan. 26 Supp.)

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

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

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the

kind described in Subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services 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))

(Subsections 10-12 – Ord. 648-19 – Nov. 19 Supp.)

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

1. Appointment. By appointment, following public notice, by the remaining members of the Council. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish notice of the appointment in accordance with Section 372.13 of the *Code of Iowa*. If the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

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

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

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

(Ord. 580-14 – Nov. 14 Supp.)

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

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

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition
6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports
7.09 Disposal of City Real Property Policy

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims

and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

4. Change Fund. The finance officer is authorized to draw a warrant/check on the Utility Fund for establishing a change fund for the purpose of making change without commingling other funds to meet the requirements of the office. Said change fund shall be in the custody of the Clerk, who shall maintain the integrity of the fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council 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))

(Subparagraph (1) – Ord. 741-26 – Jan. 26 Supp.)

(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 Subsection 2, Paragraph B.

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

(Subsection 4 – Ord. 720-24 – Sep. 24 Supp.)

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))

(Subsection 6 – Ord. 741-26 – Jan 26 Supp.)

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

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing, 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])

(Section 7.05 – Ord. 706-23 – Oct. 23 Supp.)

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

1. 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 City officials, from the list of officials adopted by resolution of the Council, following Council approval, except as provided by Subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be

immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

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

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

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

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

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

(Section 7.08 – Ord. 706-23 – Oct. 23 Supp.)

7.09 DISPOSAL OF CITY REAL PROPERTY POLICY. The following procedures shall apply to the disposal of real property by the City:

1. Written Request. A person interested in acquiring an interest in real property from the City (hereinafter called Buyer) shall pay the City a ten dollar ($10.00) non-refundable administrative fee and file a written request with the City Manager, on a form provided by the City, generally describing the real property and the reason Buyer wishes to purchase the real property, agreeing to pay, in addition to the purchase price all costs and fees, including legal, publication, recording, appraisal and survey, incurred by the City in conjunction with the written request, whether the City conveys the property or not.

2. Preliminary City Council Review. No later than sixty (60) days after the request has been filed with the City Manager, the City Manager shall report to the City Council concerning the advisability of the proposal and whether a general public utilities easement should be reserved to the City. The Council shall consider the written request at a City Council meeting and, upon an affirmative vote of a majority of the City Council, may adopt a motion authorizing the City Manager to proceed as hereinafter described.

3. Earnest Money Payment and Administrative Fee. Upon City Council authorization to proceed, the Buyer shall make an earnest money payment in the amount of twenty-five hundred dollars ($2,500.00), which shall first be applied to the City administrative fee in the amount of two hundred fifty dollars ($250.00).

4. Notification of Adjacent Property Owners. City office staff will notify adjoining property owners of the request to purchase City property. The notice will include a copy of the application requesting the purchase and also notification of the time/date of the public hearing regarding sale of the property.

5. Guttenberg Flood Control System. If the property described in the written request is located within one hundred (100) feet of the property described in the City of Guttenberg Flood Control System Acquisition Plat, as amended, the City Manager shall determine if the US Army Corps of Engineers (hereinafter called Corps) has an objection to the proposed disposal of the property.

6. Appraisal and Survey. Upon receipt of the earnest money payment and Corp approval (if required) the City Manager shall secure a fair market appraisal and survey plat for the property and send a copy of both to the Buyer.

7. Disposal by Resolution. No more than sixty (60) days after mailing the appraisal to the Buyer, unless the request has been withdrawn, the City Council: may adopt a resolution setting forth the proposal to dispose of the real property, setting a public hearing on the proposal and requiring notice to be published as required by law.

8. After considering the proposal after the public hearing, the City Council may adopt a resolution authorizing the disposal of the property by Quit Claim Deed upon delivery of a recordable plat of survey of the property, the payment of the purchase price, the payment of all fees and costs associated with the transfer; (including legal, publication, appraisal, surveying, and recording), subject to a public utilities easement as the City Council may require, and subject to such other conditions as the City Council may require.

9. Closing. At closing the City shall record the properly executed Quit Claim Deed, a certified copy of the City Council resolution authorizing the disposal, and an Affidavit of Publication of the Public Hearing required by Section 364.7 of the Iowa Code in exchange for the payment of the purchase price and all costs associated with the transfer as described above. The earnest money payment described above shall be applied to the payment of all sums due to the City. To the extent the total amount due to the City is less than the earnest money payment, the balance shall be refunded to the Buyer. Once the property has been paid in full, the City will deliver to Buyer a properly executed Quit Claim Deed.

10. Closing. At closing the City shall record the properly executed Quit Claim Deed, a certified copy of the City Council resolution authorizing the disposal, and an Affidavit of Publication of the Public Hearing required by Section 364.7 of the Iowa Code in exchange for the payment of the purchase price and all costs associated with the transfer as described above. The earnest money payment described above shall be applied to the payment of all sums due to the City. To the extent the total amount due to the City is less than the earnest money payment, the balance shall be refunded to the Buyer. Once the property has been paid in full, the City will deliver to Buyer a properly executed Quit Claim Deed.

11. No Sale or Disposal. If, after the public hearing described at Paragraph 7.09(6)(B) the City Council does not adopt a resolution authorizing the disposal of the property, the earnest money payment described above shall be applied to all fees and costs associated with the proceedings, including legal, publication, appraisal, surveying, recording, and an administrative fee in the amount of two hundred fifty dollars ($250.00); and the balance shall be refunded to the Buyer.

12. Special Circumstances Waiver. Upon a City Council determination that special circumstances exist, the City Council may by resolution modify or waive any of the procedures described above, except those required by the *Code of Iowa* or any other chapter of the City Code.

12. No Abstract. The City shall not be required to provide an abstract in conjunction with the transfer and shall make no warranty that the City has marketable title. Buyer shall make an independent investigation as to the City's title.

(Section 7.09 – Ord. 702-23 – Feb. 23 Supp.)

CHAPTER 8

URBAN RENEWAL

EDITOR'S NOTE
The following ordinances not codified herein, and specifically saved from repeal, have been adopted and provide for Urban Renewal Areas in the City and remain in full force and effect, for division of tax levied on taxable property.

ORDINANCE NO.	ADOPTED	NAME OF AREA
396-95	July 5, 1995	Guttenberg Urban Renewal Area
431-99	June 28, 1999	Guttenberg Urban Renewal Area - 1998
451-01	November 5, 2001	Guttenberg Residential Urban Renewal Area
466-03	October 20, 2003	Guttenberg Urban Renewal Area - 2003
521-08	December 15, 2008	2008 Addition to the Guttenberg Urban Renewal Area
690-22	October 10, 2022	2022 Guttenberg Urban Renewal Area

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CHAPTER 9

URBAN REVITALIZATION

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
271-84	September 19, 1984		
283-84	September 30, 1985		
318-89	August 7, 1989		
344-91	December 2, 1991		
454-02	February 4, 2002		

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CHAPTER 15

MAYOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem;

2. And subject to approval of the City Council: Police Chief, Riverfront Advisory Board, Historic Preservation Commission, Library Board of Trustees, Recreation Board, Cable TV Commission, Cemetery Board.

(Ord. 553-11 – Dec. 11 Supp.)

15.04 COMPENSATION. The salary of the Mayor is five thousand dollars ($5,000.00) per year. † ***(Ord. 617-17 – Oct. 17 Supp.)***
(Code of Iowa, Sec. 372.13[8])

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

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† **EDITOR'S NOTE**: Effective January 1, 2018. Adopted by Ordinance 617-17 on October 2, 2017.

CHAPTER 16

MAYOR PRO TEM

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

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

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

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

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

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

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

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

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

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CHAPTER 17

COUNCIL

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

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 38.10)

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars ($100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated. ***(Ord. 505-07 – Jan. 08 Supp.)***

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The Council shall hold one regular meeting each month, which shall be on the second Monday of the month at six o'clock (6:00) p.m. in the Council Chambers, Guttenberg Municipal Building, unless a different date, time or place for a particular regular meeting is approved by the Mayor or upon the request of a majority of the members of the Council. ***(Ord. 622-18 – Jan. 18 Supp.)***

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

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

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

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

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

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

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

17.05 APPOINTMENTS.

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

A. City Clerk/Treasurer/Manager

B. City Attorney

C. Zoning Board of Adjustment

D. Planning and Zoning Commission

E. Task Forces.

2. Gender Balance. The City shall make a good faith effort for a period not less than three months to assure gender balance on all appointed Boards and Commissions by the City Council and to be in conformance with the Code of Iowa regarding such appointments. On Boards and Commissions with an odd number of members, one gender shall not be represented by a number greater than one-half plus one of the number of total members. On even numbered Boards and Commissions one gender shall not exceed one-half of the number of total members. Upon considering a person's interests, education, life experiences and willingness to serve, all things being equal, preference for appointments to individual Boards and Commissions shall be made to balance such Board or Commission on the basis of equal numbers of male and female appointees. It is the policy of the City to not discriminate against any citizen or applicant to a Board or Commission due to the sex of such citizen or applicant. ***(Ord. 553-11 – Dec. 11 Supp.)***

17.06 COMPENSATION. The salary of each Council member is forty dollars ($40.00) for each meeting of the Council attended.[†]

(Ord. 617-17 – Oct. 17 Supp.)

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

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[†] **EDITOR'S NOTE**: Effective January 1, 2018. Adopted by Ordinance 617-17 on October 2, 2017.

CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures
18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

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

18.03 PUBLICATION OF MINUTES. The Clerk shall attend all regular and special Council meetings and 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))

(Section 18.03 – Ord. 722-24 – Sep. 24 Supp.)

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

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

before the date of the election, hearing or other action, unless otherwise provided by law.

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[3 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 which by ordinance and Code of Ordinances are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 372.13[4 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. At the direction of the Council, the Clerk shall attend meetings of committees, boards and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections in accordance with Chapter 376 of the *Code of Iowa*. ***(Ord. 580-14 – Nov. 14 Supp.)***

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer

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

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

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:

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

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

2. Record of Fund. Keep the record of each fund separate.

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

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

5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.

6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.

7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation
20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 21

CITY MANAGER

21.01 Appointment and Term
21.02 Compensation
21.03 Duties
21.04 Additional Duties
21.05 Prohibited Actions

21.01 APPOINTMENT AND TERM. The City Manager is appointed by a majority vote of the Council and holds office at the discretion of the Council, and shall be subject to removal by majority vote of the Council.

21.02 COMPENSATION. The Manager shall receive such annual salary as the Council shall from time to time determine by resolution, and payment shall be made in the manner provided for paying other officers and employees. The Manager shall receive other benefits which the Council deems appropriate.

21.03 DUTIES. The duties of the City Manager are as follows:

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

2. To attend all meeting of the Council unless excused by the Mayor.

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

4. To have the general supervision and direction of the administration of the City government and to appoint with approval of the Council such administrative assistants as shall be deemed advisable.

5. To supervise and direct the official conduct of all officers of the City appointed by the Manager, and to take active control of all departments of the City, except the Police Department and departments under the control of a duly appointed or elected administrative agency.

6. To supervise the performance of all contracts for work to be done for the City, make all purchases of material and supplies and see that such material and supplies are received and are of the quality and character called for by the contract.

7. To have the power to employ, reclassify or discharge all employees of the City except the Police Chief and Police Department personnel and, subject to the approval of the Council, to fix the compensation to be paid such employees.

8. To have the power to appoint or employ persons to fill all places for which no other mode of appointment is provided and to have the power to administer oaths of office.

9. To 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, except property improvements, and undertakings managed by any utility Board of Trustees.

10. To cooperate with any administrative agency or board of trustees.

11. To be responsible for the cleaning, sprinkling and lighting of streets, alleys and public places and the collection and disposal of waste.

12. To summarily and without notice investigate any affairs and conduct of any department, agency, officer or employee under the supervision of the Manager.

13. To provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by City law.

14. To keep the Council fully advised of the financial and other conditions of the City and of its future needs.

15. To prepare and submit to the Council annually the required budgets.

16. To conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.

17. To submit to the Council at the first meeting of each month an itemized financial report in writing, showing the receipts and disbursements for the preceding month. Copies of financial reports must be available at the Clerk's office for public distribution.

18. To have such charge and control of the Police Department as the Mayor may at any time delegate in writing.

19. To perform other duties at the Council's direction.

21.04 ADDITIONAL DUTIES. The Manager shall assume all duties of the City Clerk and Treasurer if so appointed by a majority vote of the Council, and there shall be no separate appointments of such offices.

21.05 PROHIBITED ACTIONS. The Manager shall not take part in any election for Council Member other than by casting a vote.

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

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

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

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

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.

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

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.

3. Charge of Affairs. To direct and control all affairs of the Library.

4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.

6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)

12. Record of Proceedings. To keep a record of its proceedings.

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

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

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

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

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

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

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

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

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

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

22.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one month or more after the date the person agreed to return the Library equipment, is

evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies
23.04 Compensation
23.05 Powers and Duties

23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of five (5) 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.

(Section 23.01 – Ord. 744-26 – May 26 Supp.)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

6. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 24

PARK BOARD

24.01 Structure of Park Board
24.02 Budget
24.03 Records and Reports
24.04 Jurisdiction and Authority
24.05 Poles and Wires
24.06 Acquisition of Land
24.07 Sale or Lease of Property
24.08 Limited Leases
24.09 Rules and Regulations
24.10 Penalties

24.01 STRUCTURE OF PARK BOARD.

1. The Board shall consist of five (5) City residents of legal age.

2. Members of the Board shall be appointed by the Mayor with the advice and consent of the Council. Members shall demonstrate a positive interest in the natural and recreational aspects of the City.

3. The Board members are appointed for staggered terms of four (4) years. Members may serve for more than one term. Each member shall serve until the appointment of a successor. The position of any Board member shall be vacant if said member is absent from three (3) consecutive meetings of the Board, except in the case of sickness or temporary absence from the City.

4. Vacancies occurring in the Board, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced. Vacancies shall be filled by the City according to the selection as aforesaid.

5. Members shall serve without compensation.

6. A simple majority of the Board shall constitute a quorum for the transaction of business.

7. The Board shall elect a Chairperson who shall preside over all Board meetings and elect a Secretary who shall be responsible for maintaining written records of the Board's proceedings.

8. The Board shall meet at least three (3) times a year.

24.02 BUDGET. The Board shall, before January 1 of each year, submit to the Council each year a proposed budget for the ensuing fiscal year.

24.03 RECORDS AND REPORTS. The Board shall keep a record of all its proceedings and, if requested by the City Council, submit a detailed annual report to the Council no later than December 1 of each year.

24.04 JURISDICTION AND AUTHORITY. The Board shall make recommendations regarding maintenance and operation of the River Front Park (river front from the south border of Koerner Street to Broadway Street), the Triangle Park, the Big Springs property, and such other park land as the City Council shall from time to time determine by ordinance.

24.05 POLES AND WIRES. The Board may regulate or forbid, subject to the approval of the City Council, the erection of poles or the stretching of wire for electric light, street, railway, or other purposes in parks or in or along streets or highways or over public places laid out or controlled by it.

24.06 ACQUISITION OF LAND. The Board may acquire real estate within or without the City, subject to the approval of the Council, for park purposes by donation, lease, purchase, or condemnation.

24.07 SALE OR LEASE OF PROPERTY. The Board may sell, subject to the approval of the Council, exchange, or lease any real estate acquired by it which in its discretion is unfit, not desirable, unnecessary, or not required for park purposes.

24.08 LIMITED LEASES. The Board may lease under reasonable rates and requirements a particular park or portion thereof, as follows:

1. Organizations. For a period not in excess of ten (10) days to charitable, fraternal and patriotic organizations for the conduct of celebrations, anniversaries and entertainment.

2. Professional Games. For such time or times, not to exceed six (6) consecutive months, for the purpose of permitting the playing of professional baseball or other professional games.

24.09 RULES AND REGULATIONS. The Board shall have the power to make rules and regulations for the use of park or other facilities under its control, such rules shall be posted on the facility or otherwise publicized in a manner to provide adequate notice to the public.

24.10 PENALTIES. Any person who violates a Board rule or regulation which has been approved by the Council and adopted by ordinance may be subjected to the penalties provided for in the ordinance adopting the rule or regulation.

(Ch. 24 – Ord. 629-18 – Aug. 18 Supp.)

CHAPTER 25

RECREATION BOARD

25.01 Board Created
25.02 Organization
25.03 Jurisdiction and Authority
25.04 Fees
25.05 Reports
25.06 Rules

25.01 BOARD CREATED. A Recreation Board is hereby created to advise the Council on recreation programs and activities and on the operation and maintenance of the swimming pool and other recreational facilities under the City's control.

25.02 ORGANIZATION. The Board shall consist of five (5) members, and at least four (4) shall be residents of the City, and all residents of Clayton County, appointed by the Mayor with the approval of the Council for overlapping three-year terms. The Board will elect its officers, such as Chair, Vice Chair and Secretary as it deems necessary. The position of any Board member shall be vacant if said member is absent from four (4) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies shall be filled in the same manner as original appointments. The new member shall fill out the unexpired term for which the appointment is made. Terms shall expire on December 31.

25.03 JURISDICTION AND AUTHORITY. The Board shall make recommendations to the City Council with regard to ongoing programs and the operation and maintenance of the parks and facilities under its jurisdiction, including: Guttenberg Swimming Pool and Horseshoe Pond Park area, Darwin Duwe Memorial Field and the Old Golf Course Park.

25.04 FEES. The Board shall recommend fees and charges to the Council for the use of the swimming pool and any other fees directly related to recreation programs.

25.05 REPORTS. At the Council's request, the Recreation Board shall make program evaluation reports and budget requirements to the Council by the end of November each year. The Board may request expenditures related to the swimming pool or other recreational needs by submission of such request to the City Manager.

25.06 RULES. The Recreation Board shall recommend rules and regulations for the use of the swimming pool and other recreational facilities and programs. Copies of rules and regulations shall be provided to the Council and shall be posted to provide notice to the using public.

(Ch. 25 – Ord. 518-08 – Dec. 08 Supp.)

CHAPTER 26

RIVERFRONT ADVISORY BOARD

26.01 Riverfront Defined
26.02 Board Appointed
26.03 Term of Office
26.04 Vacancies
26.05 Compensation
26.06 Duties and Powers
26.07 City Manager

26.01 RIVERFRONT DEFINED. The term "riverfront" means that area of the City lying at the edge of the water of the Mississippi River and extending westward to the top edge of the riverbank or the top edge of the Guttenberg Flood Control Levee.

26.02 BOARD APPOINTED. There is a Riverfront Advisory Board, consisting of five members, who are citizens of the City and qualified by knowledge or experience to act in matters pertaining to river and riverfront recreation and development of riverfront facilities, and who do not hold any elective office in the City government, and who are appointed by the Mayor, subject to the approval of the Council.

26.03 TERM OF OFFICE. The members of the Riverfront Advisory Board shall serve for overlapping terms of five (5) years.

26.04 VACANCIES. If any vacancy shall exist on said Board caused by resignation or otherwise, the Mayor shall appoint a successor for the remainder of said term, subject to the approval of the Council.

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

26.06 DUTIES AND POWERS. The Riverfront Advisory Board shall meet at least once each year and make a report to the Mayor and Council. This report shall include activities and development progress of the preceding recreational season and recommendations for activities and development of the following fiscal year. ***(Ord. 596-16 – Feb. 16 Supp.)***

1. Officers. At the annual meeting the Board shall choose one of its members to act at Chairperson and another as Vice Chairperson or Secretary, who shall perform all duties of the Chairperson during any absence or disability.

2. Procedures. The Board shall adopt all other such rules and regulations governing its organization and procedures as it may deem necessary.

3. General Powers. The Board shall have the duty to review and make recommendations on all matters having to do with boat docking, riverfront leases, riverfront recreation and any other riverfront activity. It shall have the duty to make recommendations on regulations and rules pertaining to the use of the riverfront. It shall also have the duty to develop and recommend a plan for future riverfront development.

4. Contracts. The Board shall have no authority to enter any contracts or agreements that would be binding upon the City.

5. Expenditures. The Board shall have no authority to expend money or capital except as particularly authorized by the Council.

26.07 CITY MANAGER. The City Manager shall be an ex-officio member of the Board and shall be responsible for record keeping of the Board and administration of riverfront policy.

CHAPTER 27

HOSPITAL BOARD OF TRUSTEES

27.01 Purpose
27.02 Board Established
27.03 Trustees Elected
27.04 Oath
27.05 Organization
27.06 Compensation and Expenses
27.07 Sole Trustees
27.08 General Powers
27.09 Rules
27.10 Annual Report Published
27.11 Gifts
27.12 Depreciation Fund
27.13 Other Powers
27.14 Discrimination Prohibited

27.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned hospital by an elected Board of Trustees.

27.02 BOARD ESTABLISHED. Pursuant to an election held June 19, 1958, the management and control of the municipally owned hospital was placed in the hands of a Board of Trustees.

(Code of Iowa, Sec. 392.6)

27.03 TRUSTEES ELECTED. The Board of Trustees consists of five (5) members, elected pursuant to Section 392.6 of the Code of Iowa, for four-year terms.

27.04 OATH. The Trustees shall within ten days after election qualify by taking the oath of office.

(Code of Iowa, Sec. 392.6)

27.05 ORGANIZATION. The Board shall elect one of its number Chairperson and one as Secretary, but no bond is required of such officers.

(Code of Iowa, Sec. 392.6)

27.06 COMPENSATION AND EXPENSES. No trustee shall receive any compensation for services performed, but trustees may receive reimbursement for any cash expenses actually made for personal expenses incurred as trustees. An itemized statement of all expenses and moneys paid out shall be made under oath by each of the trustees and filed with the Secretary and allowed only by the affirmative vote of the full Board.

(Code of Iowa, Sec. 392.6)

27.07 SOLE TRUSTEES. The Board of Trustees elected pursuant to this chapter shall serve as the sole and only board of trustees for any and all institutions established by the City as provided by Section 392.6 of the Code of Iowa.

27.08 GENERAL POWERS. The Board of Trustees shall have the authority to provide for the management, control and government of the City Hospital or health care facility.

27.09 RULES. The Board shall provide all needed rules for the economic conduct of the facilities under its control.

27.10 ANNUAL REPORT PUBLISHED. The Board shall annually prepare a condensed statement of the total receipts and expenditures for the hospital or health care facility and cause the same to be published in a newspaper of general circulation in the City.

27.11 GIFTS. The Board may accept property by gift, devise, bequest or otherwise; and, if the Board deems it advisable, may sell or exchange, at public sale, any property so accepted upon a concurring vote of a majority of all members of the Board, and apply the proceeds thereof, or property received in exchange therefor, to any legitimate hospital or health care facility purpose.

27.12 DEPRECIATION FUND. The Board may in its discretion establish a fund for depreciation in accordance with the provisions of Section 392.6 of the Code of Iowa.

27.13 OTHER POWERS. The Board shall have all other powers and duties now or hereafter assigned to a board of hospital trustees by State law.

27.14 DISCRIMINATION PROHIBITED. No discrimination in the management of the hospital or health care facility shall be made against practitioners of any school of medicine recognized by the laws of the State.

CHAPTER 28

HISTORIC PRESERVATION COMMISSION

28.01 Purpose and Intent
28.02 Definitions
28.03 Structure of the Commission
28.04 Powers of the Commission

28.01 PURPOSE AND INTENT. The purposes of this chapter are to:

1. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement and perpetuation of sites and districts of historical and cultural significance;

2. Safeguard the City's historic, aesthetic and cultural heritage by preserving sites and districts of historic and cultural significance;

3. Stabilize and improve property values;

4. Foster pride in the legacy of beauty and achievements of the past;

5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;

6. Strengthen the economy of the City;

7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

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

1. "Commission" means the Guttenberg Historic Preservation Commission, as established by this chapter.

2. "Historic district" means an area which contains a significant portion of buildings, structures or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:

A. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or

C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof which is deemed to add significantly to the value and attractiveness of properties within such area; or

D. Is associated with the lives of persons significant in our past; or

E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. "Historic site" means a structure or building which:

A. Is associated with events that have made a significant contribution to the broad patterns of our history; or

B. Is associated with the lives of persons significant in our past; or

C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

D. Has yielded, or may be likely to yield, information important in prehistory or history.

28.03 STRUCTURE OF COMMISSION.

1. The Commission shall consist of five (5) members, two of whom may be nonresidents of the City so long as they are residents of the Clayton Ridge Community School District. ***(Ord. 639-19 – Aug. 19 Supp.)***

2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, conservation in general or real estate.

3. The Commission members are appointed for staggered terms of three (3) years. Members may serve for more than one term. Each member shall serve until the appointment of a successor. The position of any Commission member shall be vacant if said member is absent from three (3) consecutive meetings of the Commission, except in case of sickness or temporary absence from the City. ***(Ord. 595-16 – Feb. 16 Supp.)***

4. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced. Vacancies shall be filled by the City according to the selection as aforesaid.

5. Members shall serve without compensation.

6. A simple majority of the Commission shall constitute a quorum for the transaction of business.

7. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission's proceedings.

8. The Commission shall meet at least three (3) times a year.

28.04 POWERS OF THE COMMISSION.

1. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter. (The necessary inventory forms and procedures for their completion are available from the State Bureau of Historic Preservation.) The Commission may proceed at its own initiative or upon a petition from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.

2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.

3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein.

4. In addition to those duties and powers specified above, the Commission may, with Council approval,

A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;

B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;

C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission;

D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;

E. Contract with State or Federal government or other organizations;

F. Cooperate with Federal, State and local governments in the pursuance of the objectives of historic preservation;

G. Provide information for the purpose of historic preservation to the Council; and

H. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.

CHAPTER 29

CEMETERY BOARD

29.01 Board Created
29.02 Organization
29.03 Bylaws and Rules
29.04 Duties
29.05 Fees and Charges
29.06 Investment of Funds
29.07 Operating a Perpetual Care Cemetery

29.01 BOARD CREATED. A Cemetery Board is hereby created to manage the Guttenberg City Cemetery. Pursuant to Section 523I.502 of the Code of Iowa, the Board has stated its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

(Code of Iowa, Sec. 523I.502)

29.02 ORGANIZATION. The Board shall consist of seven (7) members, six of whom shall be citizens of the City, appointed by the Mayor with approval of the Council, and one nonresident appointed by the Board, all for overlapping terms of three (3) years. The Board shall elect its officers as it deems necessary. The position of any Board member shall be vacant if said member is absent from four consecutive regular meetings of the Board. Vacancies shall be filled in the same manner as original appointments. The new member shall fill out the unexpired term for which the appointment is made. The nonresident Board member shall be a resident of Clayton County.

29.03 BYLAWS AND RULES. The Cemetery Board shall adopt and keep in force bylaws and rules pertaining to its operation. A copy of the Cemetery Board's current bylaws and rules shall be filed with the Clerk.

29.04 DUTIES. Pursuant to the requirements of Chapter 523I of the Code of Iowa, the Cemetery Board shall supervise the care and maintenance of the Guttenberg City Cemetery, sell graves, provide perpetual care, and otherwise operate the cemetery consistent with law and tradition.

29.05 FEES AND CHARGES. The Board shall have the power to set fees and charges, subject to City Council approval, consistent with the Board's duties.

29.06 INVESTMENT OF FUNDS. All Cemetery Board funds shall be deposited, invested, disbursed, and managed in conformity with the City investment policy, which shall be administered by the City Treasurer.

(Ch. 29 – Ord. 518-08 – Dec. 08 Supp.)

29.07 OPERATING A PERPETUAL CARE CEMETERY.

1. Trusteeship. Pursuant to Section 523I.502 of the Code of Iowa, Guttenberg herby states its willingness and intention to act as the Trustee for perpetual maintenance of interment spaces in the Guttenberg City Cemetery.

2. Establishment of Trust Fund. A Perpetual Trust is hereby established for the Guttenberg City Cemetery in accordance with Iowa Code Chapter 523I, the Iowa Cemetery Act. A restricted fund is created, to be known and designated as the "Perpetual Care Cemetery Fund", which shall be funded by the deposit of an amount equal to or greater than:

A. 15% or $50, whichever is greater, for each sale of interment "Regular" spaces within the cemetery;

B. 30% or $50, whichever is greater, for each sale of interment "Miller Addition" spaces.

The fund shall be administered in accordance with the purposes of provisions of Iowa Code Chapter 523I. The Perpetual Care Cemetery Fund shall be maintained separate from all operating funds of the Cemetery and the principal of the fund shall not be reduced voluntarily, except as specifically permitted by the Iowa Cemetery Act and applicable administrative regulations.

(Ord. 609-17 – May 17 Supp.)

3. Sale of Interment Rights. The sale or transfer of interment rights in the cemetery shall be evidenced by a Certificate of Interment Rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The Agreement for Interment Rights shall disclose all information required by the Iowa Cemetery Act, including the amount or percentage of money to be placed in the Perpetual Care Cemetery Fund.

4. Perpetual Care Registry. The Cemetery shall maintain a registry of individuals who have purchased interment rights in the Cemetery subject to the care fund requirements of the Iowa Cemetery Act, including the amounts deposited in the Perpetual Care Cemetery Fund.

(Ord. 598-16 – Apr. 16 Supp.)

CHAPTER 30

CABLE TV COMMISSION

30.01 Cable TV Commission Established 30.02 Duties

30.01 CABLE TV COMMISSION ESTABLISHED. A Cable TV Commission consisting of seven (7) members is hereby established. Members of the Commission shall be appointed by the Mayor, with the approval of the Council, for staggered terms of four years; i.e., the terms of two members expire December 31, 2009; two expire December 31, 2011, and three expire December 31, 2013.

30.02 DUTIES. The Commission shall advise the Mayor and Council with regard to the Cable Television System operated within the City pursuant to the Cable TV franchise contained in Chapter 112 of this Code of Ordinances. The Commission shall review the Cable TV franchise and all Federal, State and local statutes, ordinances, regulations and rules pertaining to the operation of a cable television system and shall make such recommendations to the Mayor and Council as to measures to be adopted which will protect the interests of the public and the City pertaining to the subject of any cable television system operated within the City.

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CHAPTER 35

POLICE DEPARTMENT

35.01 Department Established
35.02 Organization
35.03 Peace Officer Qualifications
35.04 Required Training
35.05 Compensation
35.06 Peace Officers Appointed
35.07 Police Chief: Duties
35.08 Departmental Rules
35.09 Summoning Aid
35.10 Taking Weapons

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

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

35.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

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

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

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

35.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall select, subject to the approval of the Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

35.07 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the Police Chief by law or ordinance.

2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

3. Writs. Execute and return all writs and other processes directed to the Police Chief.

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

(Code of Iowa, Sec. 321.266)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

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CHAPTER 36

FIRE DEPARTMENT

36.01 Establishment and Purpose
36.02 Organization
36.03 Approved by Council
36.04 Training
36.05 Compensation
36.06 Election of Officers
36.07 Fire Chief: Duties
36.08 Obedience to Fire Chief
36.09 Constitution
36.10 Accidental Injury Insurance
36.11 Liability Insurance
36.12 Calls Outside Fire District
36.13 Mutual Aid
36.14 Authority to Cite Violations
36.15 Guttenberg Firefighter Association

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

(Code of Iowa, Sec. 364.16)

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

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

36.03 APPROVED BY COUNCIL. No person having otherwise qualified shall be appointed to the department until such appointment is submitted to and approved by a majority of the Council members.

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.

2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of $200,000 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of $50.00 or more or

emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 and 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

36.10 ACCIDENTAL INJURY INSURANCE. The Council shall contract to insure the City against liability for worker's compensation and against

statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

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

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

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

36.12 CALLS OUTSIDE FIRE DISTRICT. The department may answer calls to fires and other emergencies outside the Fire District if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the Fire District.

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

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

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

36.14 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. ***(Ord. 719-24 – Sep. 24 Supp.)***

(Code of Iowa, Sec. 100.41)

36.15 GUTTENBERG FIREFIGHTER ASSOCIATION. The City recognizes the Guttenberg Firefighter Association, an Iowa non-profit corporation, established by the firefighters as a partner in promoting the welfare of emergency responders, fire prevention activities, the enhancement of emergency response capabilities for the City and surrounding areas, and in the performance of civic, social and fund raising activities as specified in the association (foundation) and corporation articles of incorporation.

(Ord. 534-10 – Apr. 10 Supp.)

CHAPTER 37

AMBULANCE SERVICES

37.01 AGREEMENT. Pursuant to Resolution No. 1430-94, adopted December 19, 1994, the City and the Guttenberg Municipal Hospital have entered into an ambulance service operating agreement.

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CHAPTER 38

ABOVE-GROUND FUEL TANKS

38.01 Tank Installation Requirements
38.02 Distance Factors
38.03 Marking of Tanks and Containers
38.04 Fire Marshal's Regulations
38.05 Permit Required

38.01 TANK INSTALLATION REQUIREMENTS. Tank installations shall be limited to governmental, commercial and industrial establishments. Said establishments shall not install more than one above-ground tank. Storage tanks shall not exceed one thousand (1,000) gallons. Tanks installed pursuant to this chapter shall be enclosed by a six-foot high chain link fence. Said fence shall be locked at all times, except when access to the tank is necessary.

38.02 DISTANCE FACTORS. Tanks of 600 gallons or less shall be located not less than thirty (30) feet from ordinary buildings. Tanks greater than 600 gallons shall be located at least forty (40) feet from any building and adjoining properties. All dispensing shall be twenty (20) feet from any source of ignition, and so located so that all parts of the vehicles being served are on only the property on which the tank is located. There shall be no fueling in the streets, alleys or on adjoining properties. Separation of LP tanks and above-ground tanks containing gasoline shall be at least twenty (20) feet. Distance factors may be increased due to exposures or hazards in certain cases. All new or replacement tank installations must have the Fire Chief and City Manager's approval.

38.03 MARKING OF TANKS AND CONTAINERS. Tanks and containers for the storage of flammable and combustible liquids above ground shall be conspicuously marked with the name of the product which they contain, and they shall also be marked as follows: *FLAMMABLE OR COMBUSTIBLE - KEEP FIRE AND FLAME AWAY*.

38.04 FIRE MARSHAL'S REGULATIONS. In addition to the above standards, the storage of flammable and combustible liquids in the above-ground tanks shall be subject to the following rules promulgated by the State Fire Marshal's office:

1. The standards of *Flammable and Combustible Liquids Code No. 30* of the National Fire Protection Association together with its reference to other specific standards and as provided in the following rules shall be the rules governing flammable and combustible liquids in the City.

2. The standards of *Automotive and Marine Service Station Code No. 30A* of the National Fire Protection Association, together with its reference to other specific standards, shall be the rules governing automotive and marine service stations.

3. The dispensing of flammable or combustible liquids from above-ground tanks into the fuel tanks of motor driven vehicles shall not be permitted except in conformity with National Fire Protection Association No. 30A.

4. For installations other than those provided for in the National Fire Protection Association No. 30A, see National Fire Association No. 30.

5. Above-ground tanks located at a bulk plant shall not be connected by piping to a service station. Apparatus dispensing Class I liquids into the fuel tanks of motor vehicles of the public shall not be located at a bulk plant unless separated by a fence or similar barrier from the area in which the bulk operations are conducted.

6. The provisions of NFPA30 shall not prohibit the dispensing of Class I and Class II liquids into the open from a fuel dispensing system supplied by an above-ground tank, not to exceed 1,000 gallons, located at commercial, industrial, governmental or manufacturing establishments, and intended for fueling vehicles used in connection with their business. Such dispensing may be permitted provided:

A. An inspection of the premises and operations has been made and approval granted by the Fire Chief and City Manager.

B. The tank is safeguarded against collision, spillage and overfill, to the satisfaction of the Fire Chief and City Manager.

C. The tank system is listed or approved for such above-ground use.

D. The tank complies with requirements for emergency relief venting and the tank and dispensing system meet the electrical classification requirements of the Code.

E. The tank storage shall comply with NFPA 30, Flammable and Combustible Liquids Code.

7. The following venting requirements must also be adhered to:

Tank Capacity	Vent Diameter
Up to 175 gallons	1½ inches
175 to 660 gallons	2 inches
661 to 900 gallons	2½ inches
901 to 1,000 gallons	3 inches

8. Vents shall be arranged to discharge in such a way as to prevent localizing overheating of, or flame impingement on, any part of the tank in the event vapors from such vents are ignited.

9. Tanks according to Underwriters Laboratories, Inc. requirements may be used for operating pressures not exceeding 1 *psig* and shall be limited to 2.5 *psig*.

38.05 PERMIT REQUIRED. It is unlawful for any person to install, repair, alter or relocate an above-ground storage tank within the City without first obtaining a permit from the Zoning Administrator. Application for a permit shall be made on forms provided by the Zoning Administrator and shall contain or have attached thereto the following information:

1. Name, address and telephone number of the applicant. The location of the lot on which the above-ground tank is to be located and location of surrounding structures on said lot.

2. Position of the above-ground storage tank in relation to nearby buildings or structures.

3. One blueprint or drawing of the plans and specifications and method of locating the above-storage tank.

4. Name of the person installing the tank.

5. Written consent of the owner of the lot on which the tank is to be located.

6. Such other information as the Zoning Administrator shall require to show full compliance with this chapter and all other ordinances of the City.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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[1b])

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

(Section 40.03 – Ord. 675-21 – Sep. 21 Supp.)

40.04 UNLAWFUL ASSEMBLY. (Repealed by Ordinance No. 675-21 – Sep. 21 Supp.)

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

(Code of Iowa, Sec. 723.3)

CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.

2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.

3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, 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. ***(Ord. 680-21 – Sep. 21 Supp.)***

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

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

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

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

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

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

41.12 FIREWORKS.

(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 B 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 City 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 Iowa State Fairgrounds by the Iowa 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. It is unlawful for any person to use or explode consumer fireworks within the City outside of the following dates:

A. State Code Dates. Allowed by Section 364.2(6) of the *Code of Iowa*:

(1) July 3 between the hours of 9:00 a.m. and 10:00 p.m.

a. Except when July 3 falls on a Saturday or Sunday preceding July 4, in which fireworks shall be allowed between the hours of 9:00 a.m. and 11:00 p.m.

(2) July 4 between the hours of 9:00 a.m. and 11:00 p.m.

(3) December 31 between the hours of 9:00 a.m. and 12:30 a.m. on the immediately following day.

B. City Allowed Dates.

(1) No other dates or times permitted.

(Subsection 3 – Ord. 738-26 – Jan. 26 Supp.)

4. Novelties. This section does not apply to novelties.

(Ord. 614-17 – Sep. 17 Supp.)

41.13 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. ***(Ord. 571-13 – Oct. 13 Supp.)***

(Code of Iowa, Sec. 708.12)

41.14 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)

(Section 41.14 – Ord. 679-21 – Sep. 21 Supp.)

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft
42.07 Flood Control System
42.08 Sitting or Standing on Public Streets, Alleys, or Public Parking Areas Prohibited
42.09 Loitering Prohibited

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has

accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 FLOOD CONTROL SYSTEM. It is unlawful to damage, interfere with or misuse the Guttenberg Flood Control System, as defined herein, so as to hinder the safe and proper operation of the system or cause unnecessary costs to the City.

1. System Defined. The term "Flood Control System" means all structures and property, including flood protection levies, pumping stations, drainage structures, ditches, culverts, ponding areas, and ponding area right-of-way markers, that are or will be established, constructed or placed for the purpose of controlling flood waters in the corporate limits of the City.

2. Prohibited Acts. The following acts shall be considered misusing, damaging or interfering with the Flood Control System and prohibited by this section, unless authorized by the Council:

A. The driving or operating of any motorized vehicle on any part of any flood control levy or embankment thereof, except as authorized by an officer of the City for the purpose of maintenance, repair or other nondestructive activity.

B. The abandoning or storing of any motorized vehicles or parts thereof on any Flood Control System Property.

C. The removal, destruction or defacing of any ponding area right-of-way marker, drainage structure, building, gate or fence that exists as a part of the Flood Control System.

D. The depositing of any items such as junk, rubbish, ground, brush, trees, boards, tires and so forth, on any levy, in any ponding area, or in any drainage ditch of the Flood Control System.

E. The removal or displacement of any ground, rock or sod from any levy, drainage ditch or ponding area.

3. Abatement. Any action prohibited by paragraphs B through E of subsection 2 hereof shall be considered a nuisance and may be abated in the manner prescribed in Chapter 50 of this Code of Ordinances.

42.08 SITTING OR STANDING ON PUBLIC STREETS, ALLEYS OR PUBLIC PARKING AREAS PROHIBITED. It is unlawful for any person to do any of the following:

1. To sit or stand upon the streets, alleys or public parking areas except during parades or civic activities where said streets, alleys or public parking areas are closed to regular vehicular traffic by authority of the Mayor or Council.

2. To sit upon the sidewalk or curb and in so doing allow any part of the human body to rest upon the streets, alleys or public parking areas except during parades or civic activities where said streets, alleys or public parking areas are closed to regular traffic by authority of the Mayor or Council.

42.09 LOITERING PROHIBITED. It is unlawful for any person to stand, loaf, loiter or congregate about or upon any stairway, doorway, window or in front of any business house, dwelling house, theater, lecture room, church, playground, park, vacant lot or on sidewalks or the corners of streets or elsewhere in the City and by so doing obstruct or interfere with persons entering, passing out of or occupying any such building or premises, or, by

language, conduct or conversation, to annoy, insult or disturb persons passing along the streets, sidewalks or alleys or occupying, residing or doing business in any of the said houses, places or premises, or passing into or out of the same.

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose
43.02 Controlled Substance Defined
43.03 Drug Paraphernalia Defined
43.04 Determining Factors
43.05 Possession of Drug Paraphernalia
43.06 Manufacture, Delivery or Offering For Sale
43.07 Advertisement of Drug Paraphernalia

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

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

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

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

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

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

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

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

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

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons 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 which explain or depict its use.

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

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

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

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

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

15. Expert Testimony. Expert testimony concerning its use.

43.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

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

43.07 ADVERTISEMENT OF DRUG PARAPHERNALIA. It is unlawful for any person to place or accept for placement in any newspaper, magazine, handbill or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designated or intended for use as drug paraphernalia.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Containers in Motor Vehicles

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

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

(Code of Iowa, Sec. 123.47[1A])

2. Purchase, Consume, or Possess. 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])

3. Misrepresentation of Age. 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])

(Ord. 693-22 – Sep. 22 Supp.)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

C. "Peace Officer" means the same as defined in Section 801.4 of the *Code of Iowa*.

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

2. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a 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. ***(Ord. 693-22 – Sep. 22 Supp.)***

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

(Code of Iowa, Sec. 123.46)

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

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency
46.04 Minors in Billiard Rooms

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

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

B. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

C. "Knowingly" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

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

E. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other

responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

F. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 10:00 p.m. and 6:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of midnight and 6:00 a.m. on Friday and Saturday.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

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

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

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

D. The minor is on an emergency errand for a responsible adult;

E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

D. Minor Without Adult Supervision. If a law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a municipal infraction.

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

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

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under twenty-one (21) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative

nicotine products, vapor products, or cigarettes by a person under eighteen 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. ***(Ord. 664-20 – Nov. 20 Supp.)***

(Iowa Code, Sec. 453A.2)

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

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

46.04 MINORS IN BILLIARD ROOMS. It is unlawful for any person who keeps a billiard hall where beer, liquor or wine is sold, or the agent, clerk or employee of any such person, or any person having charge or control of any such hall, to permit any minor to remain in such hall or to take part in any of the games known as billiards or pool after 10:00 p.m. weekdays and after midnight on Fridays and Saturdays.

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CHAPTER 47

PARK AND PUBLIC AREA REGULATIONS

47.01 Purpose
47.02 Fires
47.03 Littering
47.04 Camping Prohibited
47.05 Riverfront Park Regulations

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

(Code of Iowa, Sec. 364.12)

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

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

47.04 CAMPING PROHIBITED. Camping is prohibited in all City-owned property, including but not limited to parks and parking areas, without Council approval. The Council shall consider the recommendations from the Park Board.

47.05 RIVERFRONT PARK REGULATIONS. The use of Riverfront Park is restricted and regulated as herein provided.

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

   A. "Alcoholic beverage" means alcohol, spirits, wine, alcoholic liquor, alcoholic beverages and intoxicating liquor as those terms are defined in Chapter 123 of the Code of Iowa.

   B. "Beer" means any liquid defined as beer in Chapter 123 of the Code of Iowa.

   C. "Riverfront Park" means all that land owned or leased by the City that lies between River Park Drive and the Mississippi River from the north right-of-way line of Broadway Street south to the south right-of-way line of Koerner Street.

(Ord. 548-11 – Aug. 11 Supp.)

2. Possession and/or consumption of alcoholic beverages and beer are absolutely prohibited in Riverfront Park, except to the extent permitted in this section.

A. The possession and consumption of canned beer is permitted in Riverfront Park between the hours of 10:00 a.m. and 10:00 p.m. No alcoholic beverages, bottled beer or keg beer is permitted unless otherwise herein provided.

B. The Police Chief, upon written application at least two weeks prior to the event, may (but need not) issue a special exception permit to a commonly recognized civic, charitable, educational or religious organization or group for a specific activity and time. Such special exception permit shall be issued only after the organization or group has made a $500.00 security deposit in a form acceptable to the Police Chief.

C. Any person aggrieved by a decision of the Police Chief may appeal such decision to the Council, by filing a written notice of appeal within ten days with the Clerk setting forth the reasons the aggrieved party believes the Council should overrule the decision of the Police Chief.

3. No person shall operate, park, abandon or leave any vehicle in Riverfront Park; however, the City Manager, upon written application at least two weeks prior to the occurrence, may (but need not) issue a special exception permit to an applicant, but only with formal approval of the Park Board.

4. (Repealed by Ordinance No. 660-20 – Aug. 20 Supp.)

CHAPTER 48

NOISE CONTROL

48.01 Purpose
48.02 Definitions
48.03 Noise Level Tables
48.04 Prohibited Acts
48.05 Exceptions
48.06 Motor Vehicle Maximum Sound Levels

48.01 PURPOSE. This chapter shall apply to the control of all sound and vibration originating within the limits of the City of Guttenberg.

48.02 DEFINITIONS. All terminology used in this chapter, not defined below, shall be in conformance with the applicable publications of the American National Standards Institute (ANSI) or its successor body:

1. A-weighted Sound Level. The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

2. Commercial Area. A commercial area designated as C-1 or C-2 in the Guttenberg Zoning Ordinance.

3. Decibel (dB). A unit for measuring the volume of a sound equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (20 micronewtons per square meter).

4. Gross Vehicle Weight Rating (GVWR). The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

5. Industrial Area. An industrial area designated as M-1 or M-2 in the Guttenberg Zoning Ordinance.

6. Motor Boat. Any vessel which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices and hovercraft.

7. Motor Carrier Vehicle Engaged in Interstate Commerce. Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574) as amended, pertaining to motor carriers engaged in interstate commerce.

8. Motor Vehicle. Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, amphibious craft of land, dune buggies or racing vehicles, but not including motorcycles.

9. Motorcycles. An unenclosed motor vehicle having a saddle for the use of the operator and two (2) or three (3) wheels in contact with the ground, including, but not limited to, motor scooters, minibikes and mopeds.

10. Muffler or Sound Dissipative Device. A device for abating the sound of escaping gases of an internal combustion engine.

11. Noise. An oscillation in the pressure, particle displacement velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of noise may include any characteristic of such noise, including duration, intensity and frequency.

12. Noise Disturbance. Any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

13. Noise Level. The weighted sound pressure level obtained by the use of sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI SL. 4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply. Refer to Table I and Table II for maximum noise levels allowed within the City.

14. Noise Level Meter. An instrument which includes a microphone, amplifier, network and output device used to measure pressure levels.

15. Noise Sensitive Zone. Any area designated by the City Council as an area requiring exceptional quiet (specifically included is a hospital).

16. Person. Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

17. Powered Motor Vehicle. Any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, drone, or rocket.

18. Real Property Boundary. 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 divisions.

19. Residential Area. A residential area designated as R-1, R-2, R-3, or R-4 in the Guttenberg Zoning Ordinance.

20. Vibration. An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

48.03 NOISE LEVEL TABLES.

TABLE I

Vehicle Class	45 mph Or Less	Over 45 mph
Interstate + 10,000 lb. GVWR	86 dBA	90 dBA
Other + 10,000 lb GVWR	86 dBA	90 dBA
Motorcycle	80 dBA	84 dBA
All other vehicles	74 dBA	80 dBA

All measurements in this table are maximum noise levels acceptable, and any noise in excess of the dBAs in this table shall be considered a violation.

All measurements are made at a minimum measurement of twenty five feet (25') from the source.

TABLE II

Maximum permissible sound levels from limited sources by receiving land use

Zone	Day (7:00 A.M. – 9:00 P.M.)	Night (9:00 P.M. – 7:00 A.M.)
Residential	60 dBA	50 dBA
Commercial	65 dBA	60 dBA
Industrial	75 dBA	75 dBA
Noise Sensitive Zone	55 dBA	50 dBA

All measurements in this table are maximum noise levels acceptable, and any noise in excess of the dBAs in this table shall be considered a violation.

All measurements are to be taken at the nearest lot line but not less than twenty five feet (25') from the noise source.

48.04 PROHIBITED ACTS. This chapter prohibits any noise in the City that is in excess of the noise levels in Tables I and II set out in Section 48.03 of this chapter, and further prohibits the following acts, and the causing thereof, are declared to be in violation of this chapter.

1. Operating, playing or permitting the operation or playing of any radio, television set, musical instrument or similar device which produces, reproduces or amplifies sound:

   A. In such a manner as to create a noise level (see Table II) at any portion of real property boundary or within a noise sensitive zone; or

   B. In such a manner as to create a noise level (see Table II) at twenty five feet (25') from such device, when operated in or on a motor vehicle on a public right of way or public space, or in a boat on public waters; or

   C. In such a manner as to create a noise level (see Table II) to any person other than the operator of the device, when operated by any passenger on a common carrier.

2. Using or operating any loudspeaker, public address system or similar device such that the sound therefrom creates a noise level (see Table II) across a residential real property boundary or within a noise sensitive zone.

3. Offering for sale or selling anything by shouting or outcry in such a manner as to create a noise level (see Table II) within any residential or commercial area of the City, except by permit issued by the City according to criteria set forth in Section 4-5-5 of this chapter.

4. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects in such a manner as to create a noise level (see Table II) across a residential real property boundary or within a noise sensitive zone.

5. Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work weekdays between nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. or at any time on Sundays or holidays, such that the sound therefrom creates a noise level (see Table II) across a residential real property boundary or within a noise sensitive zone. This section shall not apply to the use of domestic power tools.

6. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to create a noise level (see Table II) across a residential real property boundary or within a noise sensitive zone.

7. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment in such a manner as to create a noise level (see Table II).

8. Using explosives, firearms and similar devices without exception as set out in Section 48.05 of this chapter.

9. Operating or permitting the operation of powered model vehicles so as to create a noise level (see Table II) across a residential real property boundary, or in a public space or within a noise sensitive zone.

10. Operating or permitting the operating of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source, if on private property or twenty five feet (25') from the source, if on a public space or public right of way. For the purposes of this section "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

11. Sounding or permitting the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes, from any place, for more that five (5) minutes in any hourly period in such a manner as to create a noise level (see Table II). Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.

12. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, in such a manner as to create a noise level (see Table II). Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before seven o'clock (7:00) A.M. and not after ten o'clock (10:00) P.M. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed three (3) minutes.

Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur before nine o'clock (9:00) A.M. or after three o'clock (3:00) P.M. The three (3) minute time limit shall not apply to such complete system testings.

Sounding or permitting the sounding of any exterior burglar (or fire) alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within three (3) minutes of activation.

13. Operating or permitting the operation of any motorboat in any lake, river, stream or other waterway in such a manner as to create a noise level (see Table II).

14. Creating or causing the creation of any sound within any noise sensitive zone designated by the City Council and posted as a noise sensitive zone. The City Council may set different decibel limits than are indicated in Table II within a designated noise sensitive zone.

15 Operating or permitting the operation of any mechanically or pneumatically powered saw, sander, drill, grinder, lawn or garden tool, snowblower or similar device in residential areas in such a manner as to create a noise level (see Table II) across a residential real property boundary.

48.05 EXCEPTIONS.

1. The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

2. The City Council shall have the authority, consistent with this section, to grant special exceptions:

A. Any person seeking a special exception pursuant to this section shall file an application with the City Clerk. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special exception is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Any individual who claims to be adversely affected by allowance of the special exception may file a statement with the City Clerk containing information to support his claim. If the City Council finds that a sufficient controversy exists regarding such application, a public hearing may be held.

B. In determining whether to grant or deny the application, the City Council shall balance the hardship to the applicant, the community and other persons of not granting the special exception against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special exception. Applicants for special exceptions and persons contesting special exceptions ma be required to submit any information the City Council may reasonably require. In granting or denying an application, the City Council shall place on public file a copy of the decision and the reasons for denying or granting the special exception.

C. Special exceptions shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special exception shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special exception shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special exception was granted.

D. Application for extension of time limits specified in special exceptions or for modification of other substantial conditions shall be treated like applications for initial special exceptions under this Subsection 2.

E. The City Council may issue guidelines defining the procedures to be followed in applying for a special exception and the criteria to be considered in deciding whether to grant a special exception.

F. Within thirty (30) days following the effective date of this chapter, the owner of any commercial or industrial source of sound may apply to the City Council for a exception in time to comply with this chapter. The City Council shall have the authority, consistent with this section, to grant a exception, not to exceed ninety (90) days from the effective date of this chapter.

3. Appeals of an adverse decision of the City Council shall be made to the appropriate court of law. Review of the court shall be (de novo) limited to whether the decision is supported by substantial evidence as specified by the judge or magistrate.

4. The provisions of this chapter shall not apply to:

A. The unamplified human voice;

B. All agricultural activities; and,

C. Airports and aircraft.

48.06 MOTOR VEHICLE MAXIMUM SOUND LEVELS.

1. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right of way at any time in such a manner as to create a noise level (see Table I) emitted by the motor vehicle or motorcycle.

2. No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound-dissipative device in good working order and in constant operation. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound-dissipative device on a motor vehicle or motorcycle. No person shall use a muffler cutout, bypass or similar device on a motor vehicle on a public right of way or highway. Every motor vehicle shall be at all times equipped with an exhaust system in good working order and in constant operation similar to the OEM system to prevent excessive or unusual noise and annoying smoke. (The intent of this provision is that it is necessary to prevent both noise and smoke, and either one constitutes a violation.) Noise is measured at a distance of at least 25 feet from the near side of the nearest lane being monitored at a height of at least 4 feet above the immediate surrounding surface as listed in Table I. Levels higher than Table I shall be excessive or unusual noise.

3. The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space in such a manner as to create a noise level (see Table II), except as a warning of dangers provided in the traffic code, is prohibited.

4. No person shall park a motor truck, semi-trailer or other vehicle with trailer attached that emits noise as described in Chapter 69.10(2) (Parking Regulations). This section shall also apply to trains and motorized equipment used to maintain the railroad facilities.

5. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such vehicle for a period longer than forty five (45) minutes in any hour while such vehicle is stationary on a public right of way or public space within one hundred fifty feet (150') of a residential area or designated noise sensitive zone (see Table II).

6. No person shall operate or cause to be operated any recreational motorized vehicle off a public right of way in such a manner that the noise level emitted therefrom exceeds the limits set forth in Table II at a distance of twenty five feet (25') or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats.

(Ch. 48 – Ord. 628-18 – Jul. 18 Supp.)

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited
50.05 Nuisance Abatement
50.06 Notice to Abate: Contents
50.07 Method of Service
50.08 Request for Hearing
50.09 Abatement in Emergency
50.10 Abatement by City
50.11 Collection of Costs
50.12 Installment Payment of Cost of Abatement
50.13 Failure to Abate
50.14 Adult Establishment Nuisances

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. Offensive Smells. Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

2. Filth or Noisome Substance. Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.

3. Impeding Passage of Navigable River. Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

4. Water Pollution. Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. Blocking Public and Private Ways. Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue,

highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.08)**

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**

8. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice. †

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.

2. Location of Nuisance. The location of the nuisance.

3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

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

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

50.07 METHOD OF SERVICE. The notice may be personally served or sent by certified mail to the property owner.

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

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

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

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

50.10 ABATEMENT BY CITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk who shall pay such expenses on behalf of the City.

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

50.11 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds five hundred dollars ($500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law. ***(Ord. 560-12 – Sep. 12 Supp.)***

(Code of Iowa, Sec. 364.13)

50.13 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

50.14 ADULT ESTABLISHMENTS.

1. As used in this section, "adult establishment" means any business that provides nude or topless dancing or operates any other adult-oriented business.

2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:

A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.

B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.

C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

(Code of Iowa, Sec. 657.12)

(Section 50.14 – Ord. 716-24 – Sep. 24 Supp.)

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CHAPTER 51

JUNK AND DAMAGED VEHICLES

51.01 Definitions
51.02 Junk and Damaged Vehicles Prohibited
51.03 Junk and Damaged Vehicles a Nuisance
51.04 Exceptions

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

1. "Damaged vehicle" means any vehicle which has 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 which has become the habitat for rats, mice, or snakes, or any other vermin or insects.

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

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

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

2. "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.

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

51.02 JUNK AND DAMAGED VEHICLES PROHIBITED. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or damaged vehicle. Persons who shall be *prima facie* liable for such a violation include the owner or person in control of a damaged vehicle and the owner (or contract buyer) or occupant of any real property upon which junk or a damaged vehicle is located.

51.03 JUNK AND DAMAGED VEHICLES A NUISANCE. It is hereby declared that any junk or damaged vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa.

51.04 EXCEPTIONS. The provisions of this chapter do not apply to:

1. Structure. Any junk or a damaged vehicle stored within a garage or other enclosed structure; or

2. Business Enterprise. A business enterprise lawfully involved in the repair, maintenance, sale or salvage of vehicles provided they comply with the requirements for location, screening and storage as prescribed by the zoning regulations.

3. Vehicle Repair. A vehicles under active repair parked upon the driveway of a residentially zoned property not having a garage, provided the owner has notified the Police Department in writing of the owner's intent to actively repair the vehicle and the repairs are completed within thirty (30) days of the notification.

(Ch. 51 Ord. 502-07 – Jun. 07 Supp.)

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CHAPTER 52

WEEDS AND GRASS

52.01 Purpose
52.02 Definitions
52.03 Noxious Weeds
52.04 Maintenance Required
52.05 Uniform Height Specifications
52.06 Natural Area Excepted
52.07 Notice of Violation

52.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. "Curb", "curb line" or "curbing" means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.

2. "Cut" or "mow" means to mechanically maintain the growth of grass, weeds or brush at a uniform height.

3. "Forest cover" means land which is predominantly wooded.

4. "Natural area" means an area of forest cover, open prairies, wetlands, waterways and areas certified as wildlife habitat.

5. "Open prairies" means hillside and/or natural gully areas of one-third acre or more which have permanent vegetation cover.

6. "Owner" means a person owning private property in the City and any person occupying private property in the City.

7. "Parking" means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

52.03 NOXIOUS WEEDS. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or by the use of herbicides to eliminate or eradicate such weeds.

52.04 MAINTENANCE REQUIRED. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height as defined in Section 52.05.

52.05 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas – not to exceed six inches (6″).

2. Underdeveloped Residential Areas – not to exceed eight inches (8″).

3. Business and Industrial Areas – not to exceed six inches (6″).

4. Agriculture Areas – not to exceed fifteen inches (15″).

Grass, weeds and brush, which are allowed to grow in excess of the above-specified limitations, are deemed to be violations of this chapter.

52.06 NATURAL AREA EXCEPTED. Natural area, farmland and publicly-owned open spaces may exceed the standard established by this chapter provided, however, any weeds, vines, brush and other troublesome growth which constitute a health, safety or fire hazard shall be cut or destroyed when such growth exceeds two feet (2') in height.

52.07 NOTICE OF VIOLATION.

1. Violation. Upon the determination by the City Manager that a violation of this chapter has occurred, the City shall notify the owner by certified mail.

2. Notice. The notice shall set forth the address of the property, give the owner five (5) days from the date the notice is mailed to comply with this chapter by correcting the violation, state that if the owner fails to comply with this chapter within five (5) days the City shall perform the acts necessary to bring the property in compliance with this chapter and assess the costs of doing so against the property, and state that the notice constitutes the only notice the owner will be given for the balance of the calendar year.

3. Failure to Maintain the Property. If, after notice and the expiration of the five (5) day period, the owner fails to maintain the lawn in accordance with this chapter, the City shall perform the acts necessary to bring the property in compliance with this chapter and assess the costs of doing so against the property.

4. Additional Violation. In the case of a subsequent violation by an owner who has received notice during the calendar year, the City shall not be required to give further notice and shall perform the acts necessary to bring the property in compliance with this chapter and assess the costs of doing so against the property.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect
55.03 Livestock Neglect
55.04 Abandonment of Cats and Dogs
55.05 Livestock
55.06 At Large Prohibited
55.07 Damage or Interference
55.08 Annoyance or Disturbance
55.09 Rabies Vaccination
55.10 Owner's Duty
55.11 Confinement
55.12 At Large: Impoundment
55.13 Disposition of Animals
55.14 Impounding Costs
55.15 Pet Awards Prohibited
55.16 Tampering With A Rabies Vaccination Tag
55.17 Tampering With An Electronic Handling Device
55.18 Feeding of Wild or Stray Animals
55.19 False Representation of Service Animal

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

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

2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)

3. "At large" includes an animal outside a structure, kennel, wholly enclosed fenced yard or operating electronic invisible type animal control fence unless the animal be either on a tether of sufficient strength to restrain the animal securely fastened to an immovable object and not capable of letting the animal reach any portion of the public sidewalk or City right-of-way, or on a fixed length leash of not more than ten (10) feet in length and of sufficient strength to restrain the animal when the leash is held by a person capable of restraining and controlling the animal. Voice command is not sufficient to meet the requirements of this section. ***(Ord. 660-20 – Aug. 20 Supp.)***

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

   A. The sale or offer for sale of goods or services.

   B. A recruitment for employment or membership in an organization.

   C. A solicitation to make an investment.

   D. An amusement or entertainment activity.

5. "Fair" means any of the following:

   A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair

event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.

B. An exhibition of agricultural or manufactured products.

C. An event for operation of amusement rides or devices or concession booths.

6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.

7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.

(Code of Iowa, Sec. 717.1)

8. "Owner/custodian" means any person owning, keeping, sheltering or harboring an animal. ***(Ord. 660-20 – Aug. 20 Supp.)***

9. "Pet" means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

55.06 AT LARGE PROHIBITED. It is unlawful for the owner/custodian of any animal to allow an animal to run at large within the corporate limits of the City. ***(Ord. 660-20 – Aug. 20 Supp.)***

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

55.08 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles. It shall be unlawful for any owner, custodian or walker of any dog, cat or other animal to permit said dog, cat or other animal to discharge said animal's feces upon any public or private property, other than the property of the owner of the dog, cat or other animal, within the City if such owner, custodian or walker does not immediately thereafter remove and clean up said animal's feces from the public or private property. ***(Ord. 660-20 – Aug. 20 Supp.)***

55.09 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. ***(Ord. 660-20 – Aug. 20 Supp.)***

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.14 IMPOUNDING COSTS. Impounding costs are $150.00 for the first day or any part thereof, and $20.00 per day thereafter, plus any costs incurred.

(Code of Iowa, Sec. 351.37)

55.15 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

   A. A prize for participating in a game.

   B. A prize for participating in a fair.

   C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

   D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:

   A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

   B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations

associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.16 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful for a person to knowingly remove, disable, damage, or destroy a rabies vaccination tag attached to an item worn by the dog, including but not limited to a collar, harness, or vest. This section shall not apply to the owner of the dog, an agent of the owner, a person authorized to take action by the owner, a peace officer, a licensed veterinarian, or an animal shelter or pound.

(Iowa Code, Sec. 351.45)

(Ord. 664-20 – Nov. 20 Supp.)

55.17 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE. It is unlawful for a person to knowingly remove, disable, damage, or destroy an electronic device designed and used to maintain custody or control of a dog or to modify a dog's behavior attached to an item worn by the dog, including but not limited to a collar, harness, or vest. This section shall not apply to the owner of the dog, an agent of the owner, a person authorized to take action by the owner, a peace officer, a licensed veterinarian, or an animal shelter or pound.

(Iowa Code, Sec. 351.46)

(Ord. 664-20 – Nov. 20 Supp.)

55.18 FEEDING OF WILD OR STRAY ANIMALS.

1. Purpose. The intent of this article is to protect the health, safety, and welfare of the community and its wildlife by prohibiting the feeding of wild animals and waterfowl on public and private property in the City. The feeding of waterfowl and other wild animals increases the potential for damage to public parks and private property. It also elevates the potential for the spread of disease in people and companion animals. In addition, it is the intent of this article to protect the welfare of the waterfowl and wild animals themselves. Wildlife studies have shown that feeding waterfowl and other wild animals can interrupt their normal migration patterns, can make them more aggressive in demanding food, cause nutritional problems, expose them to danger by eliminating their natural fear of predators, and promote the spread of diseases and disease-carrying parasites.

2. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. Bird Feeder. A container, receptacle or apparatus designed for the feeding of songbirds or other backyard birds.

B. Feed. To give, place, expose, deposit, distribute or scatter any edible material which can be utilized for consumption by wild animals.

C. Person. Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

D. Water Fowl. Wildfowl of the order Anseriformes, especially members of the family Anatidae which includes any bird that swims, frequents the water or lives about rivers, lakes, or other bodies of water, including but not limited to ducks, geese, swan and gulls.

E. Wild Animal. Any animal, which is not normally domesticated in this State, including but not limited to coyotes, deer, feral cats, foxes, groundhogs, squirrels, chipmunks, mice, rats, rabbits, opossums, raccoons, skunks, and waterfowl.

3. Prohibitions.

A. No person shall purposely or knowingly, feed or in any manner provide access to food to any wild animal or waterfowl within the corporate limits of the City, on lands either publicly or privately owned. Feeding does not include baiting in the legal taking of fish and/or game.

B. Feeding of songbirds and other backyard birds, not including waterfowl, shall be permitted outdoors at such times and in such a manner that:

(1) The feeding does not create an unreasonable disturbance with wildlife.

(2) Any feed must be placed within a bird feeder with a maximum volume of not more than one cubic foot, placed at least four feet above ground.

(3) Bird feeders are placed where wildlife other than songbirds and backyard birds are unable to eat from them and do not become an attractant for wild animals.

(4) No person may place any salt, mineral, grain, fruit, or vegetable material on any public or private property within the City limits for the purpose of feeding wild or stray animals. Prohibited items include, but are not limited to, salt, corn, apples, cabbage, potatoes, acorns, oats, carrots, beets, straw, hay, fodder, or any combination

thereof. No person shall intentionally feed, or cause to be fed, food or other substances for the consumption of wild or stray animals.

4. This section shall not apply to the following situations:

A. Naturally growing grain, fruit or vegetable material, including gardens, ornamental plants, and residue for lawns, gardens, and other vegetable material maintained as a mulch pile.

B. Grain or other feed scattered or distributed solely as a result of normal agricultural, gardening, or soil stabilization practices.

C. Stored crops, provided that the stored crop is not intentionally made available to wild or stray animals.

D. Incidental 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 wild or stray animals.

E. Elevated bird/squirrel feeders providing seed, grain, fruit, worms or suet for birds or squirrels.

F. Veterinarians, animal shelters, and County, State or federal game officials who in the course of their duties have wild or stray animals in their custody and control.

G. When authorized by the City Council on a temporary basis for a specific purpose.

5. Enforcement. This ordinance shall be enforced by the City of Guttenberg Police Department. Any person found to be in violation of this ordinance shall be ordered to cease the feeding immediately.

6. Violation and Penalties. Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine according to the following schedule: $75 for the first violation of this ordinance, $150 for the second violation of this ordinance committed within one calendar year of any other violation of this ordinance, and $300 for the third violation of this ordinance committed within one calendar year of any other violation of this ordinance.

(Section 55.18 – Ord. 685-21 – Nov. 21 Supp.)

55.19 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, Section 216C.11(3)(B))

(Section 55.19 – Ord. 742-26 – Jan. 26 Supp.)

CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fees
56.03 Delinquency Penalty
56.04 License Tags
56.05 License Records
56.06 Immunization
56.07 Duplicate Tags
56.08 Transfers of Licensed Dogs
56.09 Kennel Dogs

56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog over the age of four months shall procure a dog license from the Clerk on or before the first day of January of each year.

2. Such license may be procured after January 1 and at any time for a dog which has come into the possession or ownership of the applicant or which has reached the age of three (3) months after said date.

3. The owner of a dog for which a license is required shall apply to the Clerk on forms provided by the City.

4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog shall be revaccinated.

5. All licenses shall expire on January 1 of the year following the date of issuance.

56.02 LICENSE FEES. The annual license fee shall be as established by resolution of the Council.

56.03 DELINQUENCY PENALTY. Any dog owner who fails to procure a dog license on or before April 1 of each year shall be subject to a fine of $50.00. ***(Ord. 554-12 – Jan. 12 Supp.)***

56.04 LICENSE TAGS. Upon receipt of the application and fee, the Clerk shall deliver or mail to the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Clerk, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the dog for which issued. A license issued for one dog shall not be transferable to another dog. Upon the expiration of the license the owner shall remove said tag from the dog.

56.05 LICENSE RECORDS. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.

2. The description of the dog as specified in the application, together with the name of the owner of the dog.

3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated.

4. The amount of all fees paid.

5. Such other data as may be required by law.

56.06 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within six months from the effective date of the dog license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog.

56.07 DUPLICATE TAGS. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of twenty-five cents (25¢) and the Clerk shall enter in the license record the new number assigned.

56.08 TRANSFERS OF LICENSED DOGS. Upon transfer of a licensed dog into the City, the owner shall surrender the original license tag to the Clerk. The Clerk shall preserve the surrendered tag and, without a license fee, issue a new license tag.

56.09 KENNEL DOGS. Dogs kept in state or federally licensed kennels, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions
57.02 Keeping of Dangerous Animals Prohibited
57.03 Keeping of Vicious Animals Prohibited
57.04 Seizure, Impoundment and Disposition

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

1. "Dangerous 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 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 dangerous by the County Board of Health or Council; and (c) the following animals, which are deemed to be dangerous animals per se:

   A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;

   B. Wolves, coyotes and foxes;

   C. Badgers, wolverines, weasels, skunk and mink;

   D. Raccoons;

   E. Bears;

   F. Monkeys and chimpanzees;

   G. Bats;

   H. Alligators and crocodiles;

   I. Scorpions;

   J. Snakes that are venomous, or constrictors;

   K. Gila monsters;

   L. (Repealed by Ordinance No. 723-24 – Oct. 24 Supp.)

   (Ord. 607-17 – Jan. 17 Supp.)

2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including (but not limited to) such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the

owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period.

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

1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.

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

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

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

(Ord. 607-17 – Jan. 17 Supp.)

57.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious 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 a dangerous animal or vicious animal on premises in the City, the Mayor shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given

in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

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

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

5. If the Council affirms the action of the Mayor, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Mayor is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Guttenberg Traffic Code."

60.02 DEFINITIONS. Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are 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" includes River Park Drive from Schiller Street to Main Street, First Street from Schiller Street to Pearl Street, Second Street from Schiller Street to Herder Street, Schiller Street from Third Street to River Park Drive, Herder Street from Third Street to River Park Drive, Goethe Street from Second Street to River Park Drive and Prince Street from Second Street to River Park Drive.

2. "MPH" means miles per hour.

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

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. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

6. "Pedestrian" means a person afoot or a person using a pedestrian conveyance.

(Code of Iowa, Sec. 321.1(51))

7. "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(51A))

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. "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))

10. "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.

11. "Stop" means when required, the complete cessation of movement.

12. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

13. "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))

14. "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.

15. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a 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, Sec. 321.1(90))

(Section 60.02 – Ord. 721-24 – Sep. 24 Supp.)

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

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

3. Parade Not A Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.

4. Control By Peace Officers and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Traffic Control Devices
61.02 Installation
61.03 Compliance
61.04 Crosswalks
61.05 Traffic Lanes
61.06 Necessity of Signs
61.07 Standards

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

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

(Code of Iowa, Sec. 321.254 & 321.255)

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

(Code of Iowa, Sec. 321.256)

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

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

61.05 TRAFFIC LANES. Where traffic lanes have been marked on street pavements at such places as traffic conditions require, it is unlawful for the

operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

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

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

(Code of Iowa, Sec. 321.255)

CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Tampering with Vehicle
62.07 Open Containers in Motor Vehicles
62.08 Obstructing View at Intersections
62.09 Reckless Driving
62.10 Careless Driving
62.11 Noise
62.12 Engine Brakes and Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
8. Section 321.99 – Fraudulent use of registration.
9. Section 321.174 – Operators licensed.
10. Section 321.174A – Operation of motor vehicles with expired license.
11. Section 321.180 – Instruction permits.
12. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.
13. Section 321.193 – Restricted licenses.
14. Section 321.194 – Special minor's licenses.
15. Section 321.216 – Unlawful use of license and nonoperator's identification card.

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

17. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes.

(Ord. 664-20 – Nov. 20 Supp.)

18. Section 321.219 – Permitting unauthorized minor to drive.

19. Section 321.220 – Permitting unauthorized person to drive.

20. Section 321.221 – Employing unlicensed chauffeur.

21. Section 321.222 – Renting motor vehicle to another.

22. Section 321.223 – License inspected.

23. Section 321.224 – Record kept.

24. Section 321.232 – Radar jamming devices; penalty.

25. Section 321.234A – All-terrain vehicles.

26. Section 321.235A – Electric personal assistive mobility devices. †

27. Section 321.247 – Golf cart operation on City streets.

28. Section 321.257 – Official traffic control signal.

29. Section 321.259 – Unauthorized signs, signals or markings.

30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.

31. Section 321.262 – Damage to vehicle.

32. Section 321.263 – Information and aid.

33. Section 321.264 – Striking unattended vehicle.

34. Section 321.265 – Striking fixtures upon a highway.

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

36. Section 321.278 – Drag racing prohibited.

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

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

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

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† **EDITOR'S NOTE**: *Code of Iowa* Section 321.235B was added as Subsection 146 in September 2021.

40. Section 321.298 – Meeting and turning to right.

41. Section 321.299 – Overtaking a vehicle.

42. Section 321.302 – Overtaking on the right.

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

44. Section 321.304 – Prohibited passing.

45. Section 321.306 – Roadways laned for traffic.

46. Section 321.307 – Following too closely.

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

48. Section 321.309 – Towing; convoys; drawbars.

49. Section 321.310 – Towing four-wheel trailers.

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

51. Section 321.313 – Starting parked vehicle.

52. Section 321.314 – When signal required.

53. Section 321.315 – Signal continuous.

54. Section 321.316 – Stopping.

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

56. Section 321.319 – Entering intersections from different highways.

57. Section 321.320 – Left turns; yielding.

58. Section 321.321 – Entering through highways.

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

60. Section 321.323 – Moving vehicle backward on highway.

61. Section 321.323A – Approaching certain stationary vehicles.

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

63. Section 321.324A – Funeral processions.

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

65. Section 321.330 – Use of crosswalks.

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

67. Section 321.333 – Duty of drivers.

68. Section 321.340 – Driving through safety zone.

69. Section 321.341 – Obedience to signal of train.

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

71. Section 321.343 – Certain vehicles must stop.

72. Section 321.344 – Heavy equipment at crossing.

73. Section 321.344B – Immediate safety threat; penalty.

74. Section 321.354 – Stopping on traveled way.

75. Section 321.359 – Moving other vehicle.

76. Section 321.362 – Unattended motor vehicle.

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

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

79. Section 321.365 – Coasting prohibited. †

80. Section 321.367 – Following fire apparatus.

81. Section 321.368 – Crossing fire hose.

82. Section 321.369 – Putting debris on highway.

83. Section 321.370 – Removing injurious material.

84. Section 321.371 – Clearing up wrecks.

85. Section 321.372 – School buses.

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

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

88. Section 321.382 – Upgrade pulls; minimum speed.

89. Section 321.383 – Exceptions; slow vehicles identified.

90. Section 321.384 – When lighted lamps required.

91. Section 321.385 – Head lamps on motor vehicles.

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

93. Section 321.387 – Rear lamps.

94. Section 321.388 – Illuminating plates.

95. Section 321.389 – Reflector requirement.

† **EDITOR'S NOTE**: *Code of Iowa* Section 321.366 was added as Subsection 147 in September 2021.

96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
99. Section 321.394 – Lamp or flag on projecting load.
100. Section 321.395 – Lamps on parked vehicles.
101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
105. Section 321.404A – Light-restricting devices prohibited.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
111. Section 321.417 – Single-beam road-lighting equipment.
112. Section 321.418 – Alternate road-lighting equipment.
113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
115. Section 321.421 – Special restrictions on lamps.
116. Section 321.422 – Red light in front.
117. Section 321.423 – Flashing lights.
118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.
121. Section 321.433 – Sirens, whistles and bells prohibited.
122. Section 321.434 – Bicycle sirens or whistles.
123. Section 321.436 – Mufflers, prevention of noise.
124. Section 321.437 – Mirrors.
125. Section 321.438 – Windshields and windows.

126. Section 321.439 – Windshield wipers.

127. Section 321.440 – Restrictions as to tire equipment.

128. Section 321.441 – Metal tires prohibited.

129. Section 321.442 – Projections on wheels.

130. Section 321.444 – Safety glass.

131. Section 321.445 – Safety belts and safety harnesses; use required.

132. Section 321.446 – Child restraint devices.

133. Section 321.449 – Motor carrier safety regulations.

134. Section 321.450 – Hazardous materials transportation.

135. Section 321.454 – Width of vehicles.

136. Section 321.455 – Projecting loads on passenger vehicles.

137. Section 321.456 – Height of vehicles; permits.

138. Section 321.457 – Maximum length.

139. Section 321.458 – Loading beyond front.

140. Section 321.460 – Spilling loads on highways.

141. Section 321.461 – Trailers and towed vehicles.

142. Section 321.462 – Drawbars and safety chains.

143. Section 321.463 – Maximum gross weight.

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

145. Section 321.466 – Increased loading capacity; reregistration.

146. Section 321.235B – Low-speed electric bicycles.
(Ord. 676-21 – Sep. 21 Supp.)

147. Section 321.366 – Acts prohibited on fully controlled-access facilities. ***(Ord. 676-21 – Sep. 21 Supp.)***

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 OPEN CONTAINERS IN MOTOR VEHICLES.

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

(Code of Iowa, Sec. 321.284)

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

(Code of Iowa, Sec. 321.284A)

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

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

62.09 RECKLESS DRIVING.

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

(Code of Iowa, Sec. 321.277)

2. No person shall make or attempt to make 360º turns ("doughnuts") or do any other activity inconsistent with the safe and normal operation of a motor vehicle.

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

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.

2. Simulating a temporary race.

3. Causing any wheel or wheels to unnecessarily lose contact with the ground.

4. Causing the vehicle to unnecessarily turn abruptly or sway.

62.11 NOISE. It is unlawful for a person to disturb the peace by excessive loud or unusual noise of a motor vehicle, including blowing horns, unauthorized sirens, radios or any type of speaking devices or noise makers.

62.12 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the City any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in loud, unusual or explosive noise from such vehicle, except in response to an imminent traffic accident.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred (300) feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

3. The scheduled fine for a violation of this section shall be fifty dollars ($50.00).

(Ord. 540-11 – Mar. 11 Supp.)

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries and Parking Lots
63.04 Special Speed Zones
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – twenty (20) miles per hour.
2. Residence or School District – twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On River Park Drive from Main Street to Lessing Street;

B. On First Street from Prince Street to Schiller Street.

2. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On DeKalb Street from U.S. Highway 52 to River Park Drive;

B. On River Park Drive from DeKalb Street to Lessing Street;

C. On Lorenz Lane and Acre Street from U.S. Highway 52 to the terminus of Acre Street; ***(Ord. 507-07 – Jan. 08 Supp.)***

D. On Miners Creek Road from County Road C7X to north corporate limits;

E. On Great River Road from North Fifth Street to 2 tenths mile north on Great River Road;

F. On Kosciusko Street from North Third Street to North Fifth Street;

G. On Fifth Street from Haydn Street to Kosciusko Street.
(Paragraph G – Ord. 689-22 – Aug. 22 Supp.)

3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Kosciusko Street from Bluff Street to the railroad crossing;

B. On Bluff Street from Kosciusko Street to Benton Street;

C. On U.S. Highway 52 from south corporate limits to Regent Street;

D. (Repealed by Ordinance No. 689-22 – Aug. 22 Supp.)

E. On Great River Road from 2 tenths mile north of North Fifth Street to 100 yards north of Marina Road.
(Ord. 507-07 – Jan. 08 Supp.)

4. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Bluff Street from Benton Street to north corporate limits.

5. Special 50 MPH Speed Zones. A speed in excess of fifty (50) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Highway 52 from Hayden Street to North Hill Drive.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns
64.03 Left Turn for Parking

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

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

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

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

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

(Code of Iowa, Sec. 321.311)

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

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

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield
65.02 School Stops
65.03 Stop Before Crossing Sidewalk
65.04 Stop When Traffic Is Obstructed
65.05 Pedestrians' Right-of-Way

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

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

(Code of Iowa, Sec. 321.249)

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

(Code of Iowa, Sec. 321.353)

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

65.05 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)

(Section 65.05 – Ord. 721-24 – Sep. 24 Supp.)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets
66.04 Load Limits on Bridges
66.05 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

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

(Code of Iowa, Sec. 321.471)

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

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

(Code of Iowa, Sec. 321.473)

2. Deliveries Off Truck Route. Any such motor vehicle, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

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CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled
69.02 Park Adjacent to Curb
69.03 Park Adjacent to Curb – One-way Street
69.04 Angle Parking
69.05 Angle Parking – Manner
69.06 Parking for Certain Purposes Illegal
69.07 Parking Prohibited
69.08 Persons With Disabilities Parking
69.09 Flood Emergency
69.10 Truck Parking Limited
69.11 Street Cleaning
69.12 Trailer Parking Limited
69.13 Winter Parking
69.14 Snow Removal
69.15 Snow Routes
69.16 Limited Parking
69.17 Construction Trailers
69.18 Special Parking Restrictions for Public Events

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

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. River Park Drive on the west side from Schiller Street to Prince Street;

2. River Park Drive on the east side from the north end of the school to Prince Street;

3. Main Street on both sides from River Park Drive to the hospital.

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

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than forty-eight (48) hours, unless otherwise limited under the provisions of Section 69.01 of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.

3. Advertising. Displaying advertising.

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the Code of Ordinances.

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

1. Crosswalk. On a crosswalk.

(Code of Iowa, Sec. 321.358 [5])

2. Center Parkway. On the center parkway or dividing area of any divided street.

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

3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.

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

4. Sidewalks. On or across a sidewalk.

(Code of Iowa, Sec. 321.358 [1])

5. Driveway. In front of a public or private driveway.

(Code of Iowa, Sec. 321.358 [2])

6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.

(Code of Iowa, Sec. 321.358[3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.

(Code of Iowa, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.

(Code of Iowa, Sec. 321.358 [6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

(Code of Iowa, Sec. 321.358 [8])

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. Area Between 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.

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

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

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

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

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

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

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

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

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

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

69.09 FLOOD EMERGENCY. Whenever the City Manager determines that any area of the City has been or is in imminent danger of being inundated by the flood waters of the Mississippi River, the City Manager may designate the same a "Flood Area" and erect suitable barricades and signs giving notice thereof. After signs have been erected giving notice thereof, no vehicles shall enter said flood area without first having been authorized to do so by the City Manager.

69.10 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

1. In the City. 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 City. 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. ***(Ord. 496-07 – Apr. 07 Supp.)***

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced.

69.11 STREET CLEANING. To facilitate street cleaning, special and temporary no parking areas will be established at the direction of the Police Chief in coordination with the Street Superintendent.

(Renumbered by Ord. 509-07 – Jan. 08 Supp.)

69.12 TRAILER PARKING LIMITED. Trailers, whether attached to a towing vehicle or not, are allowed to park on the street for up to forty-eight (48) hours, except no trailer parking shall be allowed in the Business District. A minimum of 48 hours is required before the trailer may be parked within one hundred (100) feet of the original location. ***(Ord. 698-22 – Nov. 22 Supp.)***

69.13 WINTER PARKING. In order to facilitate the plowing and removal of snow from streets and public ways, parking is prohibited as follows:

1. A snow day is a day when there is snowfall forecast of two (2) inches within a 24-hour period per the National Weather Service.

(Subsection 1 – Ord. 731-25 – Oct. 25 Supp.)

2. On snow days, parking is prohibited between the hours of 2:01 a.m. and 8:00 a.m. as follows:

A. River Park Drive from Main to Lessing.

(Paragraph A – Ord. 731-25 – Oct. 25 Supp.)

B. First Street from Pearl to Schiller

C. Second Street from Herder to Schiller

D. Schiller Street from railroad tracks to River Park Drive

E. Herder Street from railroad tracks to River Park Drive

F. Goethe Street from Second Street to River Park Drive

G. Prince Street from Second Street to River Park Drive

(Ord. 509-07 – Jan. 08 Supp.)

H. Pearl Street from railroad tracks to River Park Drive.

(Paragraph H – Ord. 731-25 – Oct. 25 Supp.)

69.14 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow removal operations unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. To facilitate the removal of snow, special and temporary no parking areas will be established at the direction of the Police Chief in coordination with the street superintendent by placement of temporary *NO PARKING – SNOW REMOVAL* signs along the street. These signs shall be placed at least two hours before work is to begin and shall not be enforced for one hour after they are placed.

(Code of Iowa, 321.236[1])

(Renumbered by Ord. 509-07 – Jan. 08 Supp.)

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

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

(Renumbered by Ord. 509-07 – Jan. 08 Supp.)

69.16 LIMITED PARKING. No truck, bus, van, or vehicle used for the carrying of freight or merchandise shall be parked or permitted to stand in front of the residence property of others so as to interfere with free accessibility thereto for a longer period than is reasonably necessary. The intent of this section is to prohibit the parking or placing of such vehicles in front of residence property to the inconvenience of abutting residences unless the parking or placing of such vehicle is reasonably necessary when taken in connection with the purpose for which such vehicles are used or needed.

(Ord. 662-20 – Nov. 20 Supp.)

69.17 CONSTRUCTION TRAILERS. The purpose of this section of the Code of Ordinances is to regulate the parking of construction related trailers and equipment.

1. Definitions. The following words, when used in this section, shall have the following meanings:

   A. "Construction trailer or equipment" means any trailer or equipment utilized in conjunction with a construction project on the adjacent property commonly used for the collection and disposal of refuse, rubbish, garbage, construction materials and other waste at a construction, building, remodeling, or cleanup site.

   B. "Public place" means public grounds, streets, sidewalks, alleys, and public ways.

2. Permit Required. No construction equipment be parked or placed on or in any public place without first obtaining a permit therefor.

3. Application for Permit. An application for permit shall be submitted to the City Manager's office on a form to be provided by the City office. No construction equipment permit shall be issued except upon a finding that the property owner requesting the permit has no reasonable alternative for the placement of the construction equipment except on or in a public place. Upon such finding, payment of the permit fee, and issuance of the permit, the equipment may be placed for no more than thirty (30) days and shall not obstruct more than two (2) parking spaces. The permit must be attached to the equipment in a

conspicuous location. The permitted construction equipment shall be protected at both ends by reflective barricades or cones. Construction equipment permits shall only be issued for a period not to exceed two (2) weeks in the business district.

4. Permit Fee. The permit fee shall be $25.00.

5. Construction Equipment on Private Property. Construction dumpsters may be placed on private property for a period not to exceed sixty (60) consecutive days.

6. Construction related equipment shall be exempt if a valid building permit or excavation permit has been issued and then only for the duration of the construction project, but in no event longer than thirty days (fourteen days in commercial district). This period may be extended upon review by the City Manager and/or Chief of Police. Trailers and equipment must be removed upon request for a weather-related emergency.

7. Construction trailers and equipment shall not:

A. Be parked where they will interfere with or obstruct traffic or create a safety hazard.

B. Block any public right-of-way, including sidewalks.

C. Be stored or operated without current license and registration.

D. Be used as living quarters or for business purposes.

E. Be parked within the front yard.

F. Be connected to utility services i.e. as electricity and water.

8. Construction trailers and equipment determined to be parked in violation of this or any other section(s) of the municipal Code may be fined and trailer and equipment shall be moved upon a police officer's request.

(Section 69.17 – 699-22 – Jan. 23 Supp.)

69.18 SPECIAL PARKING RESTRICTIONS FOR PUBLIC EVENTS. No one shall stop, stand or park a vehicle in an area that has been designated as a special restricted parking area and that has been marked accordingly with a no parking sign at least 24-hours prior to the event or street closure. In the event a vehicle must be moved for the circumstances of the event, it is under the discretion of the officer to have the vehicle towed. ***(Ord. 705-23 – Aug. 23 Supp.)***

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate
70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. For parking violations, the following procedures shall apply:

1. Parking violations which are contested shall be charged and proceed before a court the same as other traffic violations. Filing fees and court costs shall be assessed as provided in Section 602.8106(1) and Section 805.6(1) of the Code of Iowa, for parking violation cases.

2. Parking violations which are uncontested shall be charged and collected upon a simple notice of a fine payable to the City Clerk. The simple notice of a fine shall be in the amount of $25.00 for snow route parking violations[†] and $15.00 for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days of the date upon which the violation occurred, it

[†] **EDITOR'S NOTE:** A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. (See Section 69.12.)

shall be increased by $5.00. The simple notice of a fine for improper use of a persons with disabilities parking permit is $100.00.

(Ord. 528-09 – Dec. 09 Supp.)

(Code of Iowa, Sec. 321.236)

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

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

3. Snow Removal and Street Cleaning. When any vehicle is left parked in violation of a ban on parking during snow removal or street cleaning operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time.

If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

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

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

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CHAPTER 74

GOLF CARTS

74.01 Purpose
74.02 Traffic Code Applies
74.03 Riding on Golf Carts
74.04 Operation Permitted
74.05 Prohibited Areas
74.06 Driver's License Required
74.07 Equipment
74.08 Hours of Operation
74.09 Registration
74.10 Speed Limit
74.11 Permit Required

74.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on certain street or alleys 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 or alley, subject to the restrictions stated herein.

74.02 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.

74.03 RIDING ON GOLF CARTS. A person operating a golf cart shall not ride other than on a permanent regular seat attached thereto. All occupants must be in a seated position at all times with no more passengers than the seat(s) are designed to accommodate. No one may be standing on the vehicle or sitting on another passenger while the vehicle is in operation.

(Ord. 587-15 – Oct. 15 Supp.)

74.04 OPERATION PERMITTED. Golf carts may be operated upon the street or alleys of the City by persons who are at least sixteen (16) years of age, subject to the restrictions set forth in this chapter. ***(Ord. 688-22 – Aug. 22 Supp.)***

74.05 PROHIBITED AREAS.

1. Golf carts shall not be operated in any public park, cemetery or other public grounds or on any public sidewalk.

2. No golf cart shall be operated on private property without the express consent of the owner.

3. Golf carts shall not be operated upon any City street or alley which is a primary road extension. Highway 52 is hereby designated a primary road extension in the City. Golf carts may cross such primary road extensions provided that:

A. The crossing is made at an angle of approximately ninety degrees to the direction of the street or alley or highway and at a place where no obstruction prevents a quick and safe crossing; and

B. The golf cart is brought to a complete stop before crossing the street or alley or highway; and

C. The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and

D. The crossing is made only at an intersection of such street or alley or highway with another public street or alley or highway.

4. Golf carts shall not be operated on that portion of the Great River Road lying Northerly of the intersection with Marina Road.

74.06 DRIVER'S LICENSE REQUIRED. Any person operating a golf cart upon any City street or alley shall possess a valid driver's license.

(Ord. No. 612-17 – Jul. 17 Supp.)

74.07 EQUIPMENT. Golf carts operated upon any street or alley shall be equipped with a slow-moving vehicle sign and a bicycle safety flag at all times during operation, and shall have adequate brakes.

74.08 HOURS OF OPERATION. Golf carts may be operated on City street or alleys only from sunrise to sunset.

74.09 REGISTRATION. Golf carts operated on City street or alleys are not required to be registered under Chapter 321 of the *Code of Iowa*; however, the operator of a golf cart is subject to the financial responsibility provisions of Chapter 321A of the *Code of Iowa*.

74.10 SPEED LIMIT. No golf cart shall be operated on any City street or alley at a speed in excess of twenty-five (25) miles per hour.

74.11 PERMIT REQUIRED.

1. No person shall operate a golf cart on any City street or alley until the owner has obtained a permit from the Chief of Police or the Chief of Police's Designee.

2. An application for a permit shall be made on a form furnished by the City and shall contain the following:

A. The name and address of the owner of the golf cart.

B. The make, color and type of golf cart.

C. The name of the owner's liability insurance carrier and policy number as shown on the proof of financial liability coverage card issued for the golf cart.

3. The permit application shall be accompanied by an annual permit fee in the amount of twenty-five dollars ($25.00). The permit shall be effective from April 1st of current calendar year through March 31st of the following calendar year. ***(Ord. 625-18 – Jun. 18 Supp.)***

4. Upon completion of the foregoing, a permit sticker shall be issued to the owner which shall be displayed visibly and prominently on the left rear fender of the golf cart.

(Ch. 74 – Ord. 579-14 – Oct. 14 Supp.)

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CHAPTER 75

UTILITY TERRAIN VEHICLES, ALL-TERRAIN VEHICLES, AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 Operation of All-Terrain Vehicles (ATVs)
75.06 Operation of Off-Road Utility Vehicles (UTVs)
75.07 Negligence
75.08 Accident Reports
75.09 Penalties
75.10 ATV and UTV Restrictions

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

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

1. "All-terrain vehicle" means a motorized vehicle with not less than three and not more than six nonhighway tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

2. Off-road motorcycles shall be considered all-terrain vehicles for the purpose of registration. Off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling if a title has not previously been issued pursuant to Chapter 321. An operator of an off-road motorcycle is subject to the provisions governing the operation of all-terrain vehicles in this chapter, but is exempt from the education instruction and certification program requirements of Sections 321I.25 and 321I.26.

(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.

(Subsection 3 – Ord. 692-22 – Sep. 22 Supp.)

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)

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

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

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

1. Streets. Snowmobiles shall be operated only upon streets 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[4a])

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

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

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

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

(1) The crossing is made at an angle of approximately 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 which constitutes an immediate hazard; and

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

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

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

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

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

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

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

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

75.05 OPERATION OF ALL-TERRAIN VEHICLES (ATVs). ATVs may only be utilized within the City limits for snow removal purposes. A special exception may be made for special events with written permission from the Chief of Police.

75.06 OPERATION OF UTVS. The operators of UTVs shall comply with the following restrictions as to where UTVs may be operated within the City:

1. Streets. 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 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 UTVs to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10[1 and 3])

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

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

3. Railroad Right-of-Way. UTVs shall not be operated on an operating railroad right-of-way. A 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[1h])

4. Parks and Other City Land. 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. 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. A 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 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 UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.

(Section 75.06 – Ord. 692-22 – Sep. 22 Supp.)

75.07 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 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)

75.08 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)

75.09 PENALTIES. Violation of this ordinance is subject to the penalties outlined by Chapter 3, Municipal Infractions, of the Guttenberg Code of Ordinances.

(Ch. 75 – Ord. 671-21 – Sep. 21 Supp.)

75.10 ATV AND UTV RESTRICTIONS. A person shall not drive or operate an ATV or UTV:

1. Unless they have a valid driver's license, not including driver's permits, are registered with the IDNR with properly displayed registration decal and have a valid proof of insurance on their ATV or UTV.

2. At a rate of speed not greater than 35 miles per hour or the posted speed limit.

3. In a careless, reckless, or negligent manner so as to endanger the person or property of another or cause damage thereto.

4. While under the influence of intoxicating liquor or narcotics or habit-forming drugs as prescribed under Chapter 321J of the *Code of Iowa*.

5. Without a lighted headlight and taillight to render clearly discernible persons and vehicles at a distance of five hundred feet ahead and back.

6. The operator and riders of an ATV or UTV shall wear the seatbelt or harness as so equipped by the manufacturer.

7. Operators under the age of 18 shall have a valid IDNR Certification for off-road utility vehicle education course.

8. Operators shall abide by all traffic laws and posted traffic signs.

9. With more persons on the vehicle than it was designed to carry.

(Section 75.10 – Ord. 692-22 – Sep. 22 Supp.)

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations
76.02 Traffic Code Applies
76.03 Double Riding Restricted
76.04 Two Abreast Limit
76.05 Bicycle Paths
76.06 Speed
76.07 Emerging from Alley or Driveway
76.08 Carrying Articles
76.09 Riding on Sidewalks
76.10 Towing
76.11 Improper Riding
76.12 Parking
76.13 Equipment Requirements
76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

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

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

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

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

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

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the

bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

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

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CHAPTER 77

BICYCLE LICENSING

77.01 License Required
77.02 License Plates or Decals
77.03 Maintenance of License Records

77.01 LICENSE REQUIRED. No person who resides within the City shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license plate or decal is attached thereto as provided herein.

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

1. License Application. Application for a bicycle license and license plate or decal shall be made upon a form provided by the City and shall be made to the Police Chief. A license fee of two dollars ($2.00) shall be paid to the City before each license is granted.

2. Issuance of License. The Police Chief, upon receiving proper application therefor is authorized to issue a bicycle license which shall be effective immediately.

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

3. License Valid. Any license issued hereunder shall expire upon the sale or other transfer of ownership of the licensed bicycle, and the transferor shall report such sale or transfer to the Police Chief.

77.02 LICENSE PLATES OR DECALS. License plates or decals are required as follows:

1. Issued. The Police Chief, upon issuing a bicycle license, shall also issue a license plate or decal bearing the license number assigned to the bicycle and the name of the City.

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

2. Attached to Bicycle. The Police Chief shall cause such license plate or decal to be firmly attached to the bicycle for which issued in such position as to be plainly seen from the rear.

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

3. Removal. No person shall remove a license plate or decal from a bicycle during the period for which issued unless said bicycle is dismantled and no longer operated upon any street in the City.

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

4. Lost License. In the event a license plate or decal shall be lost, destroyed or stolen, the owner shall report such to the Clerk immediately. A new license shall be issued upon payment of a fee of twenty-five cents (25¢).

77.03 MAINTENANCE OF LICENSE RECORDS. The Police Chief shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number on the frame of the bicycle for which issued, and a record of all bicycle license fees collected.

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

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions
80.02 Authority to Take Possession of Abandoned Vehicles
80.03 Notice by Mail
80.04 Reclamation of Abandoned Vehicles
80.05 Fees for Impoundment
80.06 Disposal of Abandoned Vehicles
80.07 Disposal of Totally Inoperable Vehicles
80.08 Proceeds from Sales
80.09 Duties of Demolisher

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

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

1. "Abandoned vehicle" means any of the following:

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity who is a garage keeper as defined in Section 321.90 of the Code of Iowa, 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. ***(Ord. 528-09 – Dec. 09 Supp.)***

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

80.03 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, Subsection 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 personal 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])

(Section 80.03 – Ord. 677-21 – Sep. 21 Supp.)

80.04 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*. ***(Ord. 677-21 – Sep. 21 Supp.)***

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay three dollars ($3.00) if claimed within five (5) days of impounding, plus one dollar ($1.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals
81.03 Obstructing Streets
81.04 Crossing Maintenance
81.05 Speed

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

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

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

(Code of Iowa, Sec. 321.1)

81.02 WARNING SIGNALS. ***(Repealed by Ord. 589-15 – Oct. 15 Supp.)***

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

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

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

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

3. Disabled. When the train is disabled.

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

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

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

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

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

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])
(Code of Iowa, Sec. 364.11)

81.05 SPEED. It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than twenty-five (25) miles per hour.

(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions
90.02 Superintendent's Duties
90.03 Water System Connection Required
90.04 Abandoned Connections
90.05 Permit
90.06 Connection Charge
90.07 Compliance with Plumbing Code
90.08 Plumber Required
90.09 Excavations
90.10 Tapping Mains
90.11 Installation of Water Service Pipe
90.12 Responsibility for Water Service Pipe
90.13 Failure to Maintain
90.14 Curb Valve
90.15 Interior Valve
90.16 Inspection and Approval
90.17 Completion by the City
90.18 Shutting off Water Supply
90.19 Operation of Curb Valve and Hydrants
90.20 City Street Cut Charge
90.21 Cross-Connection Prohibited
90.22 Right of Entry

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

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

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

3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.

4. "Water main" means a water supply pipe provided for public or community use.

5. "Water service pipe" means the pipe from the water main to the building served.

6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 WATER SYSTEM CONNECTION REQUIRED. The owners of all residences, business establishments and properties intended or used for human habitation, occupancy, employment, recreation or other purposes within the City shall connect such facilities to the water main in accordance with this Code of Ordinances, subject to the following requirements:

1. The owner of any such facility located on a lot abutting on any street, alley or right-of-way in which there is located a water main shall connect such facilities to the water main if the water main is located within 100 feet of the lot line of such owner. Such mandatory connection shall be completed within 90 days after the date of notice from the City to do so. No such mandatory connection shall be ordered unless authorized by a majority vote of the Council.

2. The owner of any such facility located on a lot abutting on any street, alley or right-of-way in which a new water main is installed shall connect such facilities to the water main within 90 days of the project completion date, provided that the water main is installed within 100 feet of the lot line and the City has given public notification of the project completion date at least 30 days prior to the project completion date.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 CONNECTION CHARGE. A connection charge in the amount of one hundred dollars ($100.00) shall be paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The City Manager shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The City Manager shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the City Manager shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in

the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

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

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall

permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.20 CITY STREET CUT CHARGE. Any customer/property owner in need of a street cut due to a break in a water service line shall be liable for any fees charged by the City and shall be responsible for the restoration of the public property to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City.

90.21 CROSS-CONNECTIONS PROHIBITED. No person shall cross-connect a private water supply system with the public water supply system. Any person violating the provisions of this section shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed, continued or permitted.

90.22 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 purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of these Water Service System chapters.

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CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems – Exception
91.04 Location of Meters
91.05 Meter Setting
91.06 Meter Costs
91.07 Meter Repairs
91.08 Right of Entry
91.09 Outside Read Meter
91.10 Temporary Removal
91.11 Meter Accuracy and Testing

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS – EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.08 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.09 OUTSIDE READ METER. All new residential meter installations shall be installed with outside reads. The Superintendent shall install outside reads on any existing meter installation that the Superintendent deems necessary for the good operation of the water utility.

91.10 TEMPORARY REMOVAL. Meters will be removed and a consumption reading taken at the request of a customer, upon payment of a read-out fee of $45.00 during regular service hours or $90.00 after regular service hours. ***(Ord. 655-20 – Feb. 20 Supp.)***

91.11 METER ACCURACY AND TESTING. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 10% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not for a longer period than six (6) months. If the meter is found to be accurate, slow, or less than 10% fast, the customer shall pay the reasonable cost of the test. Any meter found inaccurate beyond a tolerance of 10% shall not be returned to service until it is properly adjusted. For special uses when it is not feasible or if the meter should become stuck and not properly register the water actually used, the Clerk or Superintendent shall make as accurate an estimate as possible for billing the customer, basing that estimate on past usage and averages.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates And Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued
92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Temporary Vacancy
92.10 Water Lost Due to Leaky Plumbing

92.01 SERVICE CHARGES. Each location, building or premises where public water service is available but is not connected to the public water system shall be considered as benefiting from the system and shall pay the minimum monthly fee as provided in Section 92.02 of this chapter. Each customer connected to the system shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES AND SERVICE. Water service shall be furnished at the following monthly rates within the City:

WATER RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Minimum Bill (2,000 gallons or less)	$31.67	$32.62	$33.60	$34.61	$35.65
Rate Per 100 gallons consumed over 2,000 gallons per month (rounded to the nearest 100 gallons)	$0.0048359	$0.00498099	$0.00513042	$0.00528433	$0.00544286
Sales tax shall be in addition to all the above in accordance with State law.					

(Section 92.02 – Ord. 711-24 – Jun. 24 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred fifty percent (150%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 and 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within 20 days unless the 20th is on a weekend, then the bill shall be due on the following Monday.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of ten percent (10%) of the past due amount shall be added to each delinquent bill each month.

(Ord. 624-18 – Jun. 18 Supp.)

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Utility Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.

4. Fees. A fee of forty-five dollars ($45.00) shall be charged before service is restored to a delinquent customer during regular service hours. A fee of ninety dollars ($90.00) shall be charged before service is restored to a delinquent customer after regular service hours. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property. ***(Ord. 655-20 – Feb. 20 Supp.)***

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. Written Notice. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential

or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership.

(Ord. 572-13 – Oct. 13 Supp.)

4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder. ***(Ord. 606-16 – Oct. 16 Supp.)***

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

(Code of Iowa, Sec. 384.84)

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a $45.00 fee collected for shutting the water off during regular service hours and a $90.00 fee shall be charged after regular service hours and the same fees collected for restoring service. During the period when service is temporarily discontinued as provided herein there shall be a minimum monthly billing as described at Section 92.02. The City will not drain pipes or pull meters for temporary vacancies. ***(Ord. 655-20 – Feb. 20 Supp.)***

92.10 WATER LOST DUE TO LEAKY PLUMBING. The customer is responsible for all losses of water due to leaky plumbing from the main to and inside of the building. The City Manager or any other City employee shall not make any adjustments in usage or costs billed the customer due to such loss. In extreme cases, the customer may request, in writing, the Council to make an adjustment on the bill. However, the Council may not grant more than one adjustment per 12-month period. ***(Ord. 711-24 – Jun. 24 Supp.)***

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CHAPTER 93

PUBLIC WATER WELLS

93.01 Restricted Land Use
93.02 Exceptions
93.03 Existing Use

93.01 RESTRICTED LAND USE. No structure or facility of the following enumerated types shall be located within the distances hereinafter set forth from a public water supply well:

SOURCE OF CONTAMINATION	REQUIRED MINIMUM DISTANCE FROM WELL, IN FEET	
	Deep Well[1]	Shallow Well[1]
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface		
Sanitary & industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers & Drains[2]		
Sanitary & storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if water main or sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if water main or sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe

Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes[3]	200	400
Other		
Cesspools & earth pit privies	200	400
Concrete vaults & septic tanks	100	200
Lagoons	400	1000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites[4]	1000	1000

[1] Deep and shallow wells, as defined in 567—40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

[2] The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

[3] Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land–applied within the separation distance on an individual, case–by–case basis.

[4] 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.

(Ord. 538-10 – Sep. 10 Supp.)

93.02 EXCEPTIONS. Proscriptions as set forth in Section 93.01 apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

93.03 EXISTING USE. The use of structures or facilities existing at the time of the adoption of the ordinance codified in this chapter[†] may be continued even though such use may not conform to the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to such date.

[†] **EDITOR'S NOTE:** Ordinance No. 274-84 *Restricting the Location of Potential Sources of Contamination within Close Proximity to Public Water Wells* was passed and approved by the Council on November 21, 1984.

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CHAPTER 94

WATER LINE EXTENSIONS

94.01 Purpose
94.02 Definitions
94.03 Construction by City
94.04 Construction by Owner
94.05 Service Connections Required
94.06 Public Project Consideration
94.07 Rights of City

94.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of water mains to serve property not served by an existing water line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

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

1. "Builder" means the owner of land who causes a water main to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

2. "Estimated cost" means a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances. All such estimates are subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, the materials to be used or installation methods, the determination of the Council shall be final and conclusive.

94.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a property or a public street where no water main has been installed may make application to the Council for the installation of a water main along such property and in the street for the purpose of serving the property in accordance with the following:

1. Application and Deposit. A written request for such installation, and a sum equal to the total estimated cost of the installation from the point where the water main is presently installed and terminates to the point where the most distant boundary of the owner's lot abuts an adjoining property or the public street, shall be submitted to the Council.

2. Construction. Upon receipt of the deposit, the City shall construct the water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.

3. Additional Costs. In the event the actual cost to the City of installation of the water main is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.

4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder's real estate. In the written request for installation of the water main, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Maximum Cost. The additional cost of installation, as contemplated in subsections 3 and 4 above, shall not exceed one hundred ten percent (110%) of the estimated cost.

6. Connecting Property. The expense of connecting the property of the builder to the water main shall be borne by the builder, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the City.

94.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a property or public street in which no water main has been previously installed desires to construct said water main at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a water main, in accordance with the following:

1. City Supervision. The installation of such a water main by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. Surety Bond. When making application to the City for a permit to install such a water main, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing water main to the point where the farthest boundary of the applicant's land abuts the property or street, and the bond shall guarantee the installation of the water main in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for

all damages to public property incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the water main.

3. Ownership of Water Main. After the water main has been installed, it shall become the property of the City.

94.05 SERVICE CONNECTIONS REQUIRED. The construction and installation of a water main shall include installation of the service line tap to and including the curb valve. Such service line tap shall be installed to the lot line of each lot bypassed by the water main.

94.06 PUBLIC PROJECT CONSIDERATION. The City may by resolution determine and classify a water line extension as a public project in accordance with the following:

1. Application. The builder may make written application to the City to classify the water line extension as a public project to be constructed without cost to the builder, or on a cost-sharing basis between the builder and the City.

2. Criteria. No public project determination shall be made by the City unless the builder's application states facts which would support a determination by the Council that such public project determination is in the best interest of the public health, safety or welfare and will be of benefit to the City due to any or all of the following: substantial water service revenue increases, increased taxation revenues, employment opportunities, economic development, or other tangible public benefits.

3. Public Project Resolution. The Council shall adopt a resolution finding that the proposed water line extension is in fact a benefit to the public health, safety or welfare and will result in any or all of the following: a substantial water service revenue increase, increase taxation revenues, employment opportunities, economic development or other tangible public benefits. The resolution shall specifically set forth the extent to which the City will participate in the project cost.

94.07 RIGHTS OF CITY. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20º) C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

18. "Sewer" means a pipe or conduit for carrying sewage.

19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the

jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12[3f])
(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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

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

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

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Permit Fee
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations

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

96.02 PERMIT FEE. The person who makes the application shall pay a fee in the amount of one hundred dollars ($100.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The City Manager shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The City Manager shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the City Manager shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the

City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the State Plumbing Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

A. Recommended grade at one-fourth (¼) inch per foot.

B. Minimum grade of one-eighth (1/8) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the State Plumbing Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).

B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.

C. Ductile iron water pipe – A.W.W.A. C-151.

D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and

backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the State Plumbing Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges
97.05 Restricted Discharges – Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

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

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

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

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

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

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

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

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

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

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

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32º F and 150º F (0º to 65º C).

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

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

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

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

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

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

10. Unusual Wastes. Materials which exert or cause:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rates and Service
99.03 Rates Outside the City and Special Conditions
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted
99.08 Annual Adjustment of Sewer Rates

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATES AND SERVICE. Each customer connected to the City water system and relying exclusively on City water shall pay a monthly sewer service charge for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed at the following monthly rates within the City:

SEWER RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Minimum Bill (2,000 gallons or less)	$37.91	$39.05	$40.22	$41.43	$42.67
Rate Per 100 gallons consumed over 2,000 gallons per month (rounded to the nearest 100 gallons)	$0.0049553	$0.00510398	$0.00525709	$0.00541481	$.00557726
Sales tax shall be in addition to all the above in accordance with State law.					

(Section 99.02 – Ord. 711-24 – Jun. 24 Supp.)

99.03 RATES OUTSIDE THE CITY AND SPECIAL CONDITIONS. The following special rates shall apply:

1. Rates Outside the City. Sewer service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates 150% of the rates provided in Section 99.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinance, rules, and regulations applying to sanitary sewer service established by the Council.

2. Special Rates. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed

by the Superintendent and submitted to the Council for approval by resolution.

(Ord. 511-08 – Apr. 08 Supp.)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system or by a combination of City water and a private water system shall pay a monthly sewer service charge in accordance with Section 99.02, based upon the estimated average monthly water consumption, as follows:

Household Size	Estimated Average Monthly Water Consumption
1	2,000 gallons
2	3,500 gallons
3	5,000 gallons
4	6,500 gallons
5	8,000 gallons
6	9,500 gallons
7	11,000 gallons
8	12,000 gallons
9	14,000 gallons
10	15,500 gallons

1. For customers served exclusively by a private water source, the monthly sewer user fee shall be based upon the estimated average monthly water consumption for the customer's household size.

2. For customers served by both a private water source and City water, the monthly sewer user fee shall be based upon either the estimated average monthly water consumption for the customer's household size or upon the actual amount of water consumed, whichever is greater.

(Ord. 511-08 – Apr. 08 Supp.)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service

charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. ***(Ord. 559-12 – Sep. 12 Supp.)***

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

99.08 ANNUAL ADJUSTMENT OF SEWER RATES. (Repealed by Ordinance No. 711-24 – Jun. 24 Supp.)

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CHAPTER 100

STORM WATER DRAINAGE SYSTEM UTILITY

100.01 Name and Purpose
100.02 District Established
100.03 Fund Established
100.04 Storm Sewer Fee
100.05 Payment of Bills
100.06 Lien for Nonpayment

100.01 NAME AND PURPOSE. The purpose of this chapter is to establish the Guttenberg "Storm Water Drainage System Utility."

100.02 DISTRICT ESTABLISHED. The Guttenberg Storm Water Drainage System Utility District shall include all property and premises located within the confines of the Guttenberg City Limits.

100.03 FUND ESTABLISHED. A City of Guttenberg Utility Fund is hereby established, to be known as the Guttenberg Storm Water Drainage System Utility Fund (Storm Sewer Fund) to collect monies from:

1. All customers who are billed for electric service by the City of Guttenberg; and

2. All Guttenberg residents who are billed for solid waste collection and disposal services pursuant to Chapter 106 of the Code of Ordinances of the City of Guttenberg, Iowa; except those included in Subsection 1 above; and

3. The owners of property within the Guttenberg City Limits, not otherwise identified in Subsections 1 and 2 hereof, as are, from time to time, identified by City Council resolution.

The fund shall be used to pay the expenses of operation and maintenance of the Guttenberg Storm Water Drainage System Utility and for storm water drainage projects for the benefit of the City of Guttenberg, as determined by the Guttenberg City Council, including, but not limited to, payments on bonds and debt service thereof.

100.04 STORM SEWER FEE. There is hereby established a storm sewer fee to fund the Guttenberg "Storm Water Drainage System Utility" Fund. The fees shall be:

1. $3.00 per month for residential properties.

2. $6.00 per month for commercial properties.

3. $12.00 per month for industrial and government properties.

4. Added to the customer's Guttenberg utility account for those customers identified in Section 100.03, Subsections 1 and 2; and

5. By ordinary mail two (2) times each year, in advance, to the persons described in Section 100.03, Subsection 3.

(Ord. 654-20 – Feb. 20 Supp.)

100.05 PAYMENT OF BILLS. All storm water fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Storm sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account. ***(Ord. 624-18 – Jun. 18 Supp.)***

100.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for storm sewer fees. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. ***(Ord. 559-12 – Sep. 12 Supp.)***

(Code of Iowa, Sec. 384.84)

(Ch. 100 – Ord. 512-08 – Apr. 08 Supp.)

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required
105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices
105.12 Construction Dumpsters

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. "Aluminum cans" means disposable aluminum beverage containers.

2. "Bags" means recyclable plastic or other sacks designed to store solid waste with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a 35-gallon bag and its contents shall not exceed forty (40) pounds. Total weight of a 13-gallon bag and its contents shall not exceed twenty (20) pounds.

3. "Bulky waste" means large household appliances such as stoves, water heater tanks, furniture, refrigerators, television sets, washing machines, dryers and other items of similar size, and fixtures and materials too large to fit into a bag or rigid container. Bulky waste does not include tires, hazardous substances, dead animals or batteries.

4. "Bundle" means tree limbs less than three inches in diameter, shrubs, and brush trimmings securely tied together with non-metallic binding forming an easily handled package not exceeding four feet in length and two feet in diameter or 40 pounds in weight.

5. "Collector" means any person authorized to gather solid waste from public and private places.

6. "Container" means a receptacle with handles and with a capacity of greater than nine gallons but not greater than 32 gallons, constructed of plastic or galvanized metal, and having a tight-fitting lid capable of preventing entrance into the container by vectors. The mouth of the

container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed 40 pounds.

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. "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)

10. "Glass container" means clean bottles and jars made from clear, green or brown glass. Expressly excluded are window and other non-container glass, porcelain and ceramic products.

11. "Hazardous waste" means any chemical or compound or mixture thereof, substance or article which, if improperly used, handled, transported, processed or stored, may constitute a danger to health or may cause damage to property by reason of being explosive, flammable, poisonous, unstable, irritating or otherwise harmful.

12. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

(IAC, 567-20.2[455B])

13. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

14. "Multiple-family dwelling" means a structure containing more than one dwelling unit.

15. "Newspaper" means paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Soiled newspapers and slick advertising inserts are excluded.

16. "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.

17. "Recyclables" means the following specified consumer waste, only when placed in a recycling container clearly marked as such. Recyclables include aluminum cans, corrugated cardboard, glass containers, newspaper, #2 plastic, tin and steel cans, and such other items as the City and contractor may agree.

18. "Recycling container" means a rigid weatherproof container (see definition of "container") including lid, designated by the City for the collection, commingling and disposal of recyclables. Recycling containers shall be clearly marked by any reasonable method which clearly identifies to an observer the container as a recyclable container.

19. "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)

20. "Residential premises" means a single-family dwelling and any multiple-family dwelling. Garden type apartments and row type housing units are considered residential premises regardless of the total number of such apartments or units which may be included in a given housing development.

21. "Residential waste" means any refuse generated on the premises as a result of residential activities. Residential waste includes recyclables which are not properly contained and identified and does not include tires, hazardous waste, non-collectible waste or stable matter. Residential waste must be contained in a bag prior to placement for collection.

(IAC, 567-20.2[455B])

22. "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)

23. "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)

24. "Sanitary disposal project" means all facilities and appurtenances (including all real and personal property connected with such facilities)

that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. "Sanitary disposal project" does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*. ***(Ord. 647-19 – Nov. 19 Supp.)***

(Code of Iowa, Sec. 455B.301)

25. "Single-family dwelling" means a structure containing one dwelling unit only.

26. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa.*

G. Post-use polymers or recoverable feedstocks that are any of the following:

(1) Processed at a pyrolysis or gasification facility.

(2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted

(Ord. 647-19 – Nov. 19 Supp.)

27 "Tag" means a tag approved by the City, which when placed on yard waste bags or bundles, indicates that the disposal fee has been paid.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all solid waste accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

1. Residential waste shall be placed at curbside in bags or containers no earlier than twelve (12) hours prior to the scheduled collection date.

2. Yard waste shall be placed at curbside in bags or bundles no earlier than 12 hours prior to the scheduled collection day. Yard waste shall be placed for collection at least three (3) and not more than six (6) feet from other solid waste containers. ***(Ord. 650-19 – Dec. 19 Supp.)***

3. Recyclables shall be placed at curbside in recycling containers no earlier than 12 hours prior to the scheduled collection date.

4. Bulky waste not exceeding two cubic yards in volume may be placed at curbside on the spring and fall bulky waste collection dates designated by the City.

5. All other solid waste may be disposed of by agreement between the producer and a licensed collector or in any other manner which complies with all Federal, State and municipal statutes, ordinances, resolutions, regulations and rules.

6. Any containers placed at the curbsides shall be promptly removed from the curb line following collection.

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances, provided that the fire is attended at all times there is combustion:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises shall be limited to areas located at least one-fourth (¼) mile from any building inhabited. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste. ***(Ord. 618-17 – Oct. 17 Supp.)***

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources and with the following regulations:

A. No material(s) other than wood or charcoal shall be burned in a recreational fire.

B. Recreational fires must be contained in a metal, brick, stone, or masonry fire ring or pit of not more than four (4) feet in diameter or four (4) feet square.

C. Recreational fires must be no closer than fifteen (15) feet from any house or building measured from the structure's foundation or base to the edge of the fire ring or pit.

D. Recreational fires must not be left unattended at any time. ***(Ord. 618-17 – Oct. 17 Supp.)***

6. Residential Waste. ***(Repealed by Ordinance No. 501-07 – Jun. 07 Supp.)***

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

8. Pesticide Containers and Seed Corn Bags. ***(Repealed by Ordinance No. 501-07 – Jun. 07 Supp.)***

9. Agricultural Structures. ***(Repealed by Ordinance No. 501-07 – Jun. 07 Supp.)***

10. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or separately contained and identified and set out for collection. As used in this section, "yard waste" means grass clippings, tree leaves and other plant material (including garden plants) or vegetation grown upon the property served, including leaves naturally accumulated. Yard waste includes tree limbs which are less than three (3) inches in diameter and less than forty-eight (48) inches in length. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural

Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)
(IAC, 567-102.13[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Dwelling Unit Waste.

   A. Residential waste shall be stored and kept for collection in bags as defined in this chapter.

   B. Yard waste shall be stored and kept for collection in bags or bundles as defined in this chapter.

   C. Recyclables shall be stored and kept for collection in clearly marked recycling containers as defined in this chapter.

2. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of solid waste accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

3. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector, City employee, law enforcement officer, or City official. ***(Ord. 704-23 – Jun. 23 Supp.)***

105.12 CONSTRUCTION DUMPSTERS. The purpose of this section of the Code of Ordinances is to regulate the placement of construction dumpsters.

1. Definitions. The following words, when used in this section, shall have the following meanings:

A. "Construction dumpster" means a refuse receptacle commonly used for the collection and disposal of refuse, rubbish, garbage, construction materials and other waste at a construction, building, remodeling, or cleanup site.

B. "Public place" means public grounds, streets, sidewalks, alleys, and public ways.

2. Permit Required. No construction dumpster may be placed on or in any public place without first obtaining a permit therefor.

3. Application for Permit. An application for permit shall be submitted to the City Clerk's office on a form to be provided by the City Clerk's office. No construction dumpster permit shall be issued except upon a finding by the City Council that the property owner requesting the permit has no reasonable alternative for the placement of the construction dumpster except on or in a public place. Upon such finding, payment of the permit fee, and issuance of the permit, the construction dumpster may be placed for no more than thirty (30) days.

The permit must be attached to the dumpster in a conspicuous location. The permitted construction dumpster shall be protected at both ends by a reflective barricade.

4. Permit Fee. The permit fee shall be $50.00.

5. Construction Dumpsters on Private Property. Construction dumpsters may be placed on private property for a period not to exceed sixty (60) consecutive days. [See Section 105.03]

(Ord. 519-08 – Jan. 09 Supp.)

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Collector's License
106.08 Collection Fees
106.09 Lien for Nonpayment
106.10 Yard Waste Collection Regulations

106.01 COLLECTION SERVICE. The City shall provide for the collection of residential waste, yard waste, recyclables, and for a spring and fall bulky waste collection, from residential premises only, and such collections shall be only by a licensed collector with whom the City has contracted for such service. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste by agreement with licensed collectors, or by any other means which in conformity will all Federal, State and municipal statutes, ordinances, resolutions, regulations and rules.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All residential waste shall be collected from residential premises at least once each week. Yard waste shall be collected from residential premises every other week during the months April through October. Recyclables shall be collected from residential premises at least once every week. ***(Ord. 650-19 – Dec. 19 Supp.)***

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 COLLECTOR'S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the Clerk and provide the following:

A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used, and a detailed description of the manner in which the collector intends to separately collect and haul away yard waste.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Coverages	Minimum Limits of Liability
Worker's Compensation	Statutory
Employer's Liability	$500,000
General Liability:	
Bodily Injury	$500,000 each occurrence $500,000 aggregate
Property Damage	$500,000 each occurrence $500,000 aggregate
Automobile Liability:	
Bodily Injury	$500,000 each person $500,000 each occurrence
Property Damage	$500,000 each occurrence

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. License Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested license shall be issued to be effective for a period of one year from the date approved.

4. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

5. License Not Transferable. No license authorized by this chapter may be transferred to another person.

6. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.

7. Grading or Excavation Excepted. No license or permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

8. Quarterly Report. At least as frequently as quarterly, each licensed collector shall provide a report to the City Manager detailing the following information:

A. Tonnage to landfill and identity of landfill;

B. Recyclable tonnage and disposal site;

C. Yard waste tonnage and disposal site;

D. All other solid waste tonnage and disposal site.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fees. The fee for solid waste collection and disposal services shall be in accordance with the fee schedule adopted by resolution of the Council.

2. Interruption of Service. Fees for service may be waived if a dwelling unit is vacant for an extended period of time greater than one calendar month, and there will be no service during such period of time, including use as a result of maintenance or cleaning of the dwelling unit. This interruption of service waiver shall be requested in writing, stating the period of time that the unit will be vacant.

3. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Ord. 559-12 – Sep. 12 Supp.)

(Code of Iowa, Sec. 384.84)

106.10 YARD WASTE COLLECTION REGULATIONS. Each licensed collector shall haul yard waste to a compost site approved by the City and shall do the following:

1. Provide the City a detailed description of the manner in which the collector intends to separately collect and haul yard waste.

2. Annually submit a written report to the City Manager detailing the quantity of yard waste that has been collected and delivered for composting during each month of the reporting year. The annual report to the City Manager shall be due on or before August 1 for the fiscal year July 1 through June 30.

3. The City may authorize a collector to sell City-approved yard waste stickers throughout the City in such a manner and at such locations as have been approved by the City Manager for no more than $1.25 per yard waste sticker.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Term
110.03 Franchise Fees or Taxes
110.04 Governing Rules and Regulations
110.05 Provision for Inadequate Energy Supplies
110.06 Construction and Maintenance of Grantee's Facilities
110.07 Extension of Grantee's Facilities
110.08 Relocation of Grantee's Facilities
110.09 Confidential Information
110.10 Force Majeure
110.11 Hold Harmless
110.12 Successors and Assigns
110.13 No Third Party Beneficiaries
110.14 Severability
110.15 Non Waiver
110.16 Repeal Conflicting Ordinances
110.17 Effective and Interpretation of Ordinance
110.18 Effective Date and Acceptance

110.01 FRANCHISE GRANTED. The City of Guttenberg, Iowa (hereinafter referred to as "Grantor"), hereby grants a non-exclusive franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware limited liability corporation (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over, above or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public easements as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, poles, communication devices, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

110.02 TERM. The rights and privileges granted hereunder shall remain in effect for a period of twenty (20) years from the effective date of this ordinance[†] hereof subject to cancellation at the end of the tenth (10) year. Grantor, through its Clerk, shall notify Grantee in writing at least one hundred and eighty (180) days before the expiration of the initial term that Grantor, desires to review the terms of the franchise.

[†] **EDITOR'S NOTE:** Ordinance No. 729-25 adopting a natural gas franchise for the City, was passed and adopted on September 8, 2025, and published on September 17, 2025.

110.03 FRANCHISE FEES OR TAXES. Grantor may, during the term of this franchise, in its discretion, in compliance with and as authorized by State law, after public hearing and upon a majority of the members of the Grantor's City Council then present, pass an ordinance imposing a franchise fee on Grantee's customers located within Grantor's corporate limits; provided, however, that the franchise fee shall not be effective, and Grantee shall not be obligated to collect and pay same, unless and until: (1) it is satisfactory to Grantee with respect to its compatibility with Grantee's billing system; (2) the form of assessment and collection of the franchise fee is based on a percentage of Grantee's gross receipts of regulated sales or transportation revenues collected from Grantee's customers within Grantor's corporate limits; and (3) Grantor has imposed a franchise fee on all other parties supplying energy within Grantor's corporate limits, calculated in the same manner as the franchise fee imposed on Grantee's customers.

110.04 GOVERNING RULES AND REGULATIONS. The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this ordinance in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

110.05 PROVISION FOR INADEQUATE ENERGY SUPPLIES. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

110.06 CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES. Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance and will fix its excavations within a commercially reasonable time period, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Within a reasonable time thereafter, Grantee shall request and Grantor shall issue any permits or authorizations required by Grantor for the actions conducted by Grantee during the emergency situation.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee as soon as practicable in advance of the actual commencement of the work, considering seasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

110.07 EXTENSION OF GRANTEE'S FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria as approved by the Iowa Utilities Commission make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

110.08 RELOCATION OF GRANTEE'S FACILITIES. If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, unless otherwise reimbursed by federal, State or local legislative act or governmental agency, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of

Grantee, if such removal is necessary to prevent interference with Grantor's facilities.

If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference with such project, then Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment.

Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. If alternative public right-of-way space is available, Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of way until it (a) if applicable, receives the reasonable cost of relocating the same and (b) obtains a reasonable public right-of-way, dedicated utility easement, or private easement alternative location for such facilities.

110.09 CONFIDENTIAL INFORMATION. Grantor acknowledges that certain information it might request from Grantee pursuant to this ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under State or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

110.10 FORCE MAJEURE. It shall not be a breach or default under this ordinance if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation

promulgated by a governmental authority having jurisdiction; and (4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

110.11 HOLD HARMLESS. Grantee, during the term of this ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or equipment; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

110.12 SUCCESSORS AND ASSIGNS. All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

110.13 NO THIRD PARTY BENEFICIARIES. This ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

110.14 SEVERABILITY. If any clause, sentence or section of this ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

110.15 NON WAIVER. Any waiver of any obligation or default under this ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

110.16 REPEAL CONFLICTING ORDINANCES. This ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. _480-05_

of the City of Guttenberg, Iowa, is hereby repealed as of the effective date hereof.

110.17 EFFECTIVE AND INTERPRETATION OF ORDINANCE. The captions that precede each section of this ordinance are for convenience and/or reference only and shall not be taken into consideration in the interpretation of the provisions of this ordinance.

110.18 EFFECTIVE DATE AND ACCEPTANCE. This ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the City Council, and filing with Clerk of the City of Guttenberg, Iowa. The Clerk of the City of Guttenberg, Iowa shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this ordinance in its entirety, Grantee shall be deemed to have accepted this ordinance and all of its terms and conditions.

(Chapter 110 – Ord. 729-25 – Oct. 25 Supp.)

CHAPTER 111

ELECTRIC UTILITY

111.01 Purpose
111.02 Policy Direction
111.03 Superintendent
111.04 Service Rules and Regulations
111.05 Rates
111.06 Fees
111.07 Line Extension
111.08 Meter Costs
111.09 Meter Repairs

111.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned electric system.

111.02 POLICY DIRECTION. The Mayor and Council shall establish appropriate rules and regulations governing the operation and maintenance of the electric system.

111.03 SUPERINTENDENT. The City Manager shall hire a superintendent who shall be responsible for execution of policies governing the system as established by the Council.

111.04 SERVICE RULES AND REGULATIONS.

1. Purpose and Construction.

   A. Purpose. These service rules have been adopted by the governing body of the municipal utility. The rules are subject to change from time to time to ensure safe and efficient service in compliance with applicable laws and regulations.

   B. Applicability. These service rules are intended to broadly govern operation of the municipal electric utility. Where a rule cannot be reasonably applied to a specific situation, the governing body reserves the right to act in an adjudicative capacity to resolve such conflicts.

   Rates and charges are not included in these operating rules. References to rates or charges and certain other terms and conditions of service adopted by the governing body refer to applicable resolutions or ordinances adopted by the utility's governing body.

   Certain aspects of municipal utility operations are regulated by the Iowa Utilities Board. Unless a statute specifically provides for regulation of municipally owned utilities, regulatory authority is limited to those statutes referenced in section 476.1B of the Code of Iowa.

C. Definitions. Unless another meaning is specifically indicated, when used in these rules:

(1) "Complaint" means a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation. The utility may require that complaints be in writing.

(2) "Customer" means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity directly benefiting from electric service or heat from the electric utility. In the case of a residence, customer also means other adult persons occupying the residence.

(3) "Delinquent or delinquency" means an account for which a service bill or service payment has not been paid in full on or before the last date for timely payment.

(4) "Demand" means the quantity of electrical power needed by the customer at a given point in time.

(5) "Governing body" means the board of trustees established under Chapter 388, Code of Iowa, or, if a utility board has not been established by election, the city council.

(6) “Iowa Utilities Board” means the Utilities Division of the Iowa Department of Commerce.

(7) "Maximum Demand" means the greatest demand required by a customer during a specific length of time.

(8) "Meter" means a device that measures and registers the integral of an electrical quantity with respect to time.

(9) "Timely Payment" is a payment on a customer's account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as payment charge to the current bill or future collection efforts.

(10) "Utility" means the municipal electric utility.

2. Service Characteristics.

A. Service Characteristics (General Statements). The utility shall make available, throughout its service area, electric service of a character determined by the utility to meet the needs of its customers. The standard service available to meet this obligation is 120/240 (nominal voltage), 60 Hz alternating current, single phase, 200 amperes, supplied via overhead conductor. The utility, at its option, may install underground conductor. In all standard service extensions, the utility shall furnish, own and maintain all facilities up to, but not including the point at which the service wire is attached to the premises. The utility shall own and maintain the meter.

Other service connections, including three phase service and service at primary voltages, are available at the option of the utility and may require a contribution in aid of construction or an advance for construction costs. Extension policies, including charges and other terms and conditions, shall be established by the governing body. Where a customer contribution in aid of construction or an advance for construction costs is required, the governing body may waive such requirements in whole or in part upon a determination that the waiver is in the public interest. Such waiver, when entered in the minutes of the governing body, shall not be considered a discriminatory practice.

B. Engineering Practice. Facilities of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure -- as far as reasonably possible -- continuity of service and safety of people and property. However, the utility shall not be held liable in actions arising from interruptions or fluctuations in service.

The utility shall use and shall require compliance with applicable provisions of the publications listed below as standards of accepted good practice and with applicable provisions of the City Code. The version of each standard shall be the one listed in 199 IAC 27.5.2 or Chapter 25 at the time the standard is applied to practice.

(1) Iowa Electrical Safety Code, as defined in 199 IAC, Chapter 25. (The Iowa Electric Safety Code incorporates, by reference, the National Electric Safety Code, ANSI C2, and makes modifications to that code.)

(2) National Electrical Code, ANSI/NFPA No. 70.

(3) American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1 and C57.13.3.

(4) American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hz), ANSI C84.1.

(5) Grounding of Industrial and Commercial Power Systems, ANSI C114.1.

(6) IEEE Standard 1159, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.

(7) IEEE Standard 519, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems or its successor standard.

(8) At railroad crossings, 199 IAC 42.6(476), "Engineering standards for electric and communication lines."

References to publications listed above shall be deemed to be to the latest edition or revision accepted by the Iowa Utilities Board as a standard of good practice. [See 199 IAC 27.5.2].

(Subparagraph B – Ord. 684-21 – Oct. 21 Supp.)

C. Special Conditions of Service. Except for facilities defined in section 2.1 of these rules or in extension of policies adopted by the governing body as a responsibility of the utility, the customer shall be responsible for all wiring and electrical equipment on his or her premises. The installation and maintenance of customer facilities shall be consistent with standards imposed by Section 2. of these rules, the special conditions of this section, and any other applicable laws or regulations.

No inspection or approval of a customer's compliance with this section by the utility or other agent of the City shall be construed to impose any duty or liability on the utility, but shall be considered solely for the purpose of ensuring protection of the utility's property and continuity of service to customers of the utility.

(1) Requirements for Electric Motors. All installations of power loads on the utility's system shall conform to the safety rules as set forth in the Iowa Electrical Safety Code Part 199 Iowa Administrative Code Chapter 25.

Customers are required to provide suitable protective devices so that motors and equipment will be protected from damage and from improper or dangerous operation in case of overload, loss of voltage, low voltage, single phasing of poly-phase motors, or the re-establishment of normal service after any of the above. The utility is not responsible for motor damage caused by any of the above conditions.

The utility reserves the right to limit the number and size of motors installed on single phase extensions. The customer or customer's electrician shall contact the utility regarding requirements for motor starting equipment, wiring and other motor specifications.

(2) Customer Equipment - Corrective Equipment. Customer electrical equipment shall be installed and used in such a manner so as not to adversely affect voltage regulation or impair the utility's service to other customers. When such equipment creates fluctuating voltage or undesirable power factor conditions, or any other disturbances in service detrimental to the service of other customers or to the utility's use of its own equipment, the customer shall be required to install and maintain, at his or her own expense, suitable corrective equipment to eliminate the detrimental effects.

(3) Customer Operated Standby Generators. No other source of electricity shall be connected to facilities served by the municipal utility, without prior written approval. At a minimum, standby generators will be approved only if a single change-over switch that provides a visible opening and is padlocked in the open position, or a relay of adequate capacity, is installed so that municipal utility lines cannot become energized by a standby power source under any condition.

(4) Customer Grid Connected Generators. Customer generators such as wind turbines or photo voltaic arrays shall only be interconnected to the utility's distribution system in accordance with the standards adopted by the utility and generation shall commence only upon the inspection and approval of the utility.

(5) Energy Conservation Standards. As a condition of electric service for space heating or cooling, the owner or

builder of any structure, completed after April 1, 1984, and intended primarily for human occupancy, must certify to the utility that the building conforms to the energy conservation requirements of the State Building Code 661-IAC16.801(103A) and 661-IAC16.802(103A)]. If compliance is being certified to another state or local agency, a copy of the certification form may be provided to the utility. If no other certification is being made, the utility will provide a certification form.

D. Class of Service For Application of Rates. Service classification shall be based upon the type of service supplied and on similarities in customer load and demand characteristics. Service classifications shall be defined as part of the rate schedules adopted by the governing body. In addition, the utility reserves the right to supply large power service in accordance with the provisions of a written contract. As nearly as practicable, rate schedules adopted by the utility shall reflect relative differences in the costs of providing various quantities of service to each customer class.

E. Meter Installation. The utility shall install, own, and maintain a meter of a type appropriate to the nature of the service, for each service extension. Meters shall not be required, however, where consumption can be readily computed without metering or where the service is of a temporary nature and the cost of meter installation would be unreasonable. A meter seal shall be placed on all meters such that the seal must be broken to gain entry.

(1) Individual Metering. Individual metering shall be required on multi-occupancy premises in which units are separately rented or owned, except that the utility may provide single meters for electricity used: in central heating, cooling, water heating or ventilation systems; where individual metering is impractical; where a facility is designated for elderly or handicapped persons and utility costs constitute part of the operating cost and are not apportioned to individual tenants; or where sub-metering or resale of service was permitted prior to l966.

(2) Special Metering Installations. The utility reserves the right, at its option, to require or place special meters or instruments on the premises of a customer for the purpose of special tests of all or part of the customer's load.

(3) Meter Register. Where it is necessary to apply a multiplier to the meter readings, the multiplier shall be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Wherever practicable, customers shall have continuous visual access to meter registers.

(4) Meter Testing. All meters and associated devices shall be inspected, tested, adjusted, and certified to be within an allowable tolerance of error, in accordance with commonly accepted engineering practice.

F. Underground Wiring. In those instances where the electrical wires servicing a customer cross land owned by anyone other than the customer (hereinafter "the neighboring owner"), the neighboring owner shall have the right to install an underground conduit and reroute the wires underground through the neighboring owner's land, and reattach the City electrical wires to the City owned meter attached to the customer's premises in a manner consistent with accepted good engineering practice in the electric industry. The right of the neighboring owner to do so is conditioned upon the neighboring owner granting the governing body a perpetual easement providing for the continued location of the electrical service line under and through the neighboring owner's land and imposing a restrictive covenant on the neighboring owner to:

(1) Bear all expenses of installing the underground conduit, rerouting the wires, and reattaching the wires to the City meter connected to the customers premises, and

(2) Bear all responsibility for the continuing maintenance, repair and reconstruction of the conduit and service lines for which perpetual easement and restrictive covenant shall be filed with the Clayton County Recorder's office for the benefit of the governing body and the customer, as a burden on the neighboring owner, which shall be a covenant running with the land and binding on the parties, their heirs, successors and assigns.

(3) The neighboring owner will notify the customer within fifteen (15) days of the date and approximate time of the changeover of reattaching wires to the City meter.

(Ord. 594-16 – Feb. 16 Supp.)

3. Customer Relations.

A. Application For Service. Application for service shall be filed at the utility's business office. At the time of application, the applicant shall be given an opportunity to designate a person or agency to receive a copy of any notice to disconnect service due to the applicant's nonpayment of a bill or deposit. As soon as practicable after the approval of the application, the utility shall supply service to the applicant in accordance with these rules and at a rate established by the utility for the applicant's appropriate class of service.

B. Customer Deposits. A deposit intended to guarantee payment of bills for service may be required prior to approval of the service application. In any case where a deposit has been refunded or is found to be inadequate, a new or additional deposit may be required upon twelve days written notice of the need for such deposit.

(1) Credit Criteria for Initial Deposits. The requirements of an initial deposit shall be determined by application of the following criteria:

a. No initial service deposit shall be required of an applicant: i) who has previously established a credit history with the utility; ii) whose twelve most recent bills from the utility were timely paid (including one automatic forgiveness of a late payment); and iii) whose new service is subject to the same rate classification as that for which the payment history was established. Reasonable proof of an equivalent recent payment history for similar service from another utility may be accepted by the utility.

b. An initial service deposit not exceeding the highest monthly billing for service during the previous twelve month period shall be required of an applicant for service who does not meet the credit criteria of subparagraph a above.

(2) Credit Criteria for New or Additional Deposits. A new or additional deposit may be required of a current customer whose initial deposit has been refunded or is found to be inadequate. The new or additional deposit shall ensure a total deposit equal to the highest monthly

billing for service during the previous twelve month period and shall apply to customers who make two late payments in a twelve month period, including one automatic forgiveness of late payment.

(3) Deposit Calculation Criteria. In calculating customer deposits, which may be based on the maximum estimated charge for a billing period, the amount shall be determined from the highest meter reading period of the previous year. The maximum level of consumption so determined, may be adjusted for reasonably determinate differences in the likely level of energy consumption, including: number of persons served, change in the type of nonresidential service; and, the installation or removal of energy conservation or alternative energy measures. Where the service connection was not previously metered, the maximum estimated charge shall be based on comparable existing service of the utility.

(4) No Interest on Deposits. No interest shall be paid on customer deposits.

(5) Record of Deposits – Unclaimed Deposits. The utility shall maintain a record of all deposits. The record of each unclaimed deposit shall be maintained for a period of three years from the date service is terminated. During that period, the utility shall make a reasonable effort to return the deposit. Deposits remaining unclaimed one year after termination of service will be transferred to the state in accordance with Chapter 556, Code of Iowa.

(6) Refund of Deposit. A deposit shall be refunded after twelve consecutive months of prompt payment (which may be eleven timely payments and one automatic forgiveness of late payment). For refund purposes, the account shall be reviewed for prompt payment after twelve months of service following the making of the deposit and for each twelve-month interval terminating on the anniversary of the deposit. Upon termination of service, the deposit plus accumulated interest (if applicable), less any unpaid utility bill of the customer, shall be reimbursed to the customer or other person who made the deposit.

C. Billing Information. Customers shall be billed on a monthly basis according to the appropriate rate schedule for metered service received during the billing period. In addition,

the bill will include charges for applicable fuel and purchased power adjustments as well as special extension and service costs applicable to the billing period.

(1) Billing Form. The following information shall be included on the billing form or made available to the customer at the utility's business office:

a. The actual or estimated meter readings at the beginning and end of the billing period.

b. The date of the meter readings.

c. The number and kind of units metered.

d. The account balance brought forward and amount of each net charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

e. The last date for timely payment shall be clearly shown and shall be not less than twenty days after the bill is rendered.

f. A distinct marking to identify an estimated bill or meter reading.

g. Any voluntary contribution to a low-income heating assistance fund or the option to contribute to such fund at the time of bill payment.

h. Any voluntary contribution to a renewable energy fund or the option to contribute to such fund at the time of bill payment.

(2) When Payable—Late Payment Penalty. A bill shall be due and payable when rendered and shall be considered delinquent after twenty days from the time it is rendered. A bill shall be considered rendered by the utility when deposited in the U.S. mail with postage prepaid or when delivered by the utility to the last known address of the party responsible for payment. Bill payments received by the utility on or after the delinquent date shall be for the gross amount stated on the bill which shall include a late payment penalty of 1.5% per month of the last due amount. Failure to receive a properly rendered bill shall not entitle the customer to relief from penalties for late payment.

Each account shall be granted one complete forgiveness of a late payment penalty in each calendar year. The customer shall be informed of the use of the automatic forgiveness by phone or in person, by posting to the next bill, or by separate mailing.

The date of delinquency for all residential customers and for other customers whose consumption is less than three thousand kWh per month, shall be changeable for cause in writing.

(3) Partial Payments. When a partial payment is made prior to the delinquent date and without designation as to the service being paid, the payment shall be credited pro rata between the bill for municipal utility services and related taxes. Payments for municipal services made during the winter disconnection moratorium may be credited to services other than electricity, at the customer's request.

(4) Where Payable. Bills shall be paid by mail, by direct deposit through a financial institution, by deposit in a designated receptacle, or in person at the utility's business office, or if available, electronic payment online.

(5) Level Payment Plan (Budget Billing). All residential customers or other customers whose consumption is less than three thousand kWh per month may select a level payment plan. The plan shall:

a. be offered when the customer initially requests service.

b. provide for entry into the level payment plan at any time during the calendar year.

c. have level payments equal to the sum of estimated charges provided by the number of standard billing intervals, all for the next twelve consecutive months.

d. carry forward any account credit or debit on the anniversary of the plan which shall be added to the estimated charges in determining the level payment amount for the next year. Unpaid level payments shall not be carried forward.

e. have the level payment amount computed at the time of entry into the plan. It may be recomputed on each anniversary, when requested by the customer, or whenever price or consumption, alone or in combination result in a new estimate differing by ten percent or more from that in use. When a customer's payment level is recomputed, the customer shall be notified of the revised payment amount and the reason for the change. The notice shall accompany the bill prior to the bill affected by the revised payment amount.

f. provide that the account be balanced upon termination of service or withdrawal from the plan.

g. regardless of account balance, provide that a delinquent bill payment shall subject the customer to a late payment penalty on the level payment amount and to other procedures for collection and termination of service.

(6) Reasonable Agreement to Pay. A residential customer who has been disconnected or is about to be disconnected due to inability to pay in full may be offered the opportunity to enter into a reasonable agreement to pay in accordance with applicable rules of the Iowa Utilities Board.

(7) Minimum Bill. The minimum bill provided for in the rate schedule for each class of service will apply to any billing period during which the service remains connected and the minimum quantity of service is not used.

(8) Temporary Disconnections. The utility may, upon reasonable notice by a customer, make temporary disconnections for the customer's convenience. The customer shall be required to pay a fee for such service in an amount to be determined by the governing body.

(9) Service Calls. The customer shall be billed for the cost of services not the responsibility of the utility according to the fees in 111.06.

(10) Customer Requested Meter Tests. The utility will periodically inspect and test meters in accordance with accepted engineering practice. In addition to regular testing, the customer may request a meter test, providing

that such tests need not be made more frequently than once each twelve months. The customer or the customer's representative may be present when the meter is tested and the results shall be reported to the customer within a reasonable time. If the meter is within the allowable tolerance, the customer shall be billed for the cost of the test in an amount established by the governing body.

(11) Adjustment of Bill for Meter Error. Whenever a meter is found to have an average error exceeding the allowable tolerance by more than 2.0 percent, or in the case of a demand meter, by more than 1.5 percent, the utility shall adjust a current customer's bill or issue a refund or back bill to a past customer. The amount of the adjustment shall be calculated on the basis of metering accuracy of one hundred percent. The adjustment period shall extend from the date the error began. If that date cannot be determined, it shall be assumed the error has existed for the shortest time calculated as five years from the date the error was discovered, one half the time since the meter was installed, or one half the time since the last previous meter test. When the adjustment is due to meter "creep" it shall be assumed that creeping affected meter registration for 25 percent of the adjustment period. The adjustment period for slow meters shall not exceed six months without the approval of the governing body. When a meter is found not to register, the utility shall issue an estimated bill.

An adjustment, refund or back-billing shall be made for any overcharge or undercharge resulting from incorrect reading of the meter, incorrect application of the rate schedule, incorrect meter connection or other similar reason.

This section shall not be construed to require a cash refund to a current customer if the amount is less than five dollars nor to a previous customer in an amount less than ten dollars. The utility further reserves the right to forego back-billing procedures that it determines are not cost effective.

(12) Adjustment of Bill for Accidental Wastage of Electricity. When a customer provides reasonable evidence to the utility that an accidental ground has existed

on the customer's equipment, the utility shall estimate the normal usage for each billing period during which the ground is reasonably believed to have existed, not to exceed two months. The bill for each such period shall be recomputed, treating the amount of above-normal energy consumption as "lost energy". Lost energy shall be billed at the lowest rate on the customer's rate schedule and the total difference will be credited to the customer's account.

(13) Returned Checks. A service charge in an amount established by the governing body shall be assessed to any customer whose check is returned unpaid by the bank on which it was drawn. The service charge shall be in addition to the late payment penalty if the check is not made good and the service fee not paid prior to the delinquent date of the bill. If two or more checks are dishonored within a six month period, the utility may require future payments to be by cash, cashier's check, postal money order or electronic transfer.

D. Disconnection or Denial of Service. The utility reserves the right to disconnect or deny service in accordance with applicable rules of the Iowa Utilities Board. A reconnection fee in an amount established by the governing body shall be applicable when service has been disconnected pursuant to this section.

E. Customer Obligations. Acceptance of service shall obligate a customer to the conditions imposed by these rules and applicable rules of the Iowa Utilities Board. Customers should note that other sections of these service rules prescribe standards of engineering practice and establish special conditions for the installation of certain motors and other equipment, common to industry and agriculture.

(1) Wiring and Electrical Equipment. Except for the meter socket and meter and other facilities defined in utility extension policies as a responsibility of the utility, the customer shall be responsible for all wiring and electrical equipment on his or her premises. The installation and maintenance of customer facilities shall be consistent with standards imposed by these service rules and any other applicable laws or regulations. Location of the meter loop and meter socket shall be at the discretion

of the utility, consistent with the customer's reasonable convenience.

No inspection or approval of a customer's compliance with this section by the utility or other agent of the municipal government shall be construed to impose any duty or liability on the utility but shall be considered solely for the purpose of ensuring protection of the utility's property and for ensuring continuity of service to customers of the utility.

(2) Damage to Utility Facilities. The customer shall not use the equipment or structures of the utility for reasons other than those incident to normal service nor create a condition likely to interfere with the functions of such equipment and structures, without written consent of the utility. The customer shall be held responsible for his or her actions which cause damage to or loss of equipment or structures located on property occupied by the customer.

(3) Customer Premises. The customer and owner shall grant the utility, without charge, right of way over and on the premises on which equipment and structures of the utility are located. Access to the equipment and structures shall be granted to the utility at reasonable times for installation, inspection, testing, repair, and other functions necessary for the maintenance of satisfactory service. Customers shall make the meter accessible without interference from pets and /or physical barriers. If, after notice is given, the customer fails to provide for safe access to the meter, remote metering will be installed at the customer’s expense.

(4) Notice by Customer to Terminate Service. A customer shall give the utility not less than three business days notice prior to final termination of service. Disconnection of service under this section shall be during the regular business hours of the utility.

F. Customer Complaints. Customers may be asked to submit complaints in writing, specifying the nature of the complaint and the relief sought. Complaints concerning the charges, practices, facilities or service of the utility shall be investigated promptly and thoroughly. A customer may appeal the findings of the investigation and shall be given reasonable opportunity for a full

hearing of the matter before the governing body or hearing officer(s) appointed by the governing body.

Complaints involving policies or actions of the utility that are regulated by the Iowa Utilities Board may also be filed with the agency in accordance with applicable regulations.

111.05 RATES. Electric service shall be furnished in accordance with the following rate schedules:

1. Rate Components. The electric rates are made up of four components: the service charge, the energy charge, the energy cost adjustment (ECA) and the demand charge (for industrial customers only).

A. Service Charge. The service charge is applied on each metered service. This charge covers the utility's overhead costs associated with meter reading, customer services, billing, service calls, and meter maintenance.

B. Energy Charge. The energy charge is the amount you pay for each kilowatt hour used.

C. Energy Cost Adjustment/Automatic Rate Adjustment. The utility's power costs change each month due to variability in the price of fuel, weather transmission, and other unforeseen changes in market, regulatory, and equipment costs. The ECA adjusts monthly to pass the utility's power costs through to customers' bills. The ECA is a charge or credit applied to each kilowatt hour of usage. It shall increase or decrease $0.0001 per kWh for each $0.0001 or fraction thereof by which the cost of wholesale energy in the current month exceeds or is less than $.07495 per kWh of actual energy used. ***(Ord. 636-19 – May 19 Supp.)***

2. Rate Schedules.

Rate Class	Application and Character of Service	Rate Components
Residential	APPLICABLE: To residential customers for all domestic uses in single-family dwellings and individual metered apartments.	Energy Charge (all kWh) - $0.1133 per kWh Customer Charge - $10.00 per month per meter
Commercial	APPLICABLE: To commercial 1-phase or 3-phase customers for lighting, heating, cooking, refrigeration, power to motors, and other approved uses. Small commercial includes any 1-phase or 3-phase customers with an average monthly demand of less than 20 kW. The average monthly demand may be reviewed annually or upon request of the customer.	Energy Charge (all kWh) - $0.1129 per kWh Customer Charge - $15.00 per month per meter
Large Commercial & Industrial	APPLICABLE: To commercial and industrial 1-phase or 3-phase customers for lighting, heating, cooking, refrigeration, power to motors, and other approved uses with an average monthly demand greater than 20 kW.	Demand Charge (all kW) - $11.50 per kW Energy Charge (all kWh) - $0.0844 per kWh Customer Charge - $27.00 per meter per month
Large Power Interruptible Service	APPLICABLE: To industrial 1-phase or 3-phase customers for lighting, heating, cooking, refrigeration, power to motors, and other approved uses with an average monthly demand greater than 20 kW and with the capability to reduce load upon request of the utility.	Demand Charge (all kW) - $6.75 per kW Energy Charge (all kWh) - $.0834 per kWh Customer Charge - $27.00 per meter per month
Residential customers outside the corporate limits of the City of Guttenberg	APPLICABLE: To residential customers located outside of the corporate limits of the City of Guttenberg for all domestic uses in single-family dwellings and individual metered apartments.	Energy Charge (all kWh) - $0.1258 per kWh Customer Charge - $15.00 per month per meter
Commercial customers outside the corporate limits of the City of Guttenberg	APPLICABLE: To commercial 1-phase or 3-phase customers for lighting, heating, cooking, refrigeration, power to motors, and other approved uses. Small commercial includes any 1-phase or 3-phase customers with an average monthly demand of less than 20 kW. The average monthly demand may be reviewed annually or upon request of the customer.	Energy Charge (all kWh) - $0.1694 per kWh Customer Charge - $22.50 per month per meter.
Large Commercial & Industrial customers outside the corporate limits of the City of Guttenberg	APPLICABLE: To commercial and industrial 1-phase or 3-phase customers for lighting, heating, cooking, refrigeration, power to motors, and other approved uses with an average monthly demand greater than 20 kW.	Demand Charge (all kW) - $17.25 per kW Energy Charge (all kWh) - $.1266 per kWh Customer Charge - $40.50 per meter per month.
Large Power Interruptible Service customers outside the corporate limits of the City of Guttenberg	APPLICABLE: To industrial 1-phase or 3-phase customers for lighting, heating, cooking, refrigeration, power to motors, and other approved uses with an average monthly demand greater than 20 kW and with the capability to reduce load upon request of the utility.	Demand Charge (all kW) - $10.13 per kW Energy Charge (all kWh) - $.1251 per kWh Customer Charge - $40.50 per meter per month

(Subsection 2 – Ord. 708-24 – Mar. 24 Supp.)

111.06 FEES. The following fees are established:

Customer-requested meter test	$125.00 (refunded if the meter is found to be defective)
Insufficient Funds Charge	$30.00
Service Calls for disconnection or reconnection:	
During service hours	$45.00 per call
After hours	$90.00 per call
Relocation and other services:	
During service hours	$45.00 per hour
After hours	$90.00 per hour
Call-out/Overtime	$90.00 per hour (two hour minimum)
	Parts and materials at cost; An advance deposit may be required if total work cost estimate exceeds $40.00
Posting for Disconnection of Service for Non-Payment	$35.00

(Ord. 651-19 – Feb. 20 Supp.)

111.07 LINE EXTENSION.

1. The City Council will extend service to customers upon their request and will require payment of such customer to cover costs associated with the utility extension.

(Ord. 651-19 – Feb. 20 Supp.)

111.08 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

(Ord. 636-19 – May 19 Supp.)

111.09 METER REPAIRS. Whenever an electric meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer, property owner, contractor or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs or replacement. ***(Ord. 636-19 – May 19 Supp.)***

(Chapter 111 – Ord. 550-11 – Aug. 11 Supp.)

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CHAPTER 112

CABLE TELEVISION FRANCHISE REGULATIONS

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112.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Basic cable" is the lowest priced tier of service that includes the retransmission of local broadcast television signals and any public, educational and governmental access channels.

2. "Cable Act" means collectively the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996.

3. "Cable operator" is as defined in the Cable Act.

4. "Cable service" is as defined in the Cable Act.

5. "Cable system" is as defined in the Cable Act.

6. "FCC" means Federal Communications Commission or successor governmental entity thereto.

7. "Franchise" means the initial authorization or renewal thereof, issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system.

8. "Grantee" means any person, firm, corporation or other entity granted a franchise hereunder, or the lawful successor, transferee or assignee thereof.

9. "Gross revenues" means any and all revenue received by the Grantee from the operation of the cable system to provide cable service to subscribers in the service area, provided, however, that such phrase does not include any fees or franchise fees or taxes which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

10. "Headend" means the land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a cable system.

11. "House drop" or "drop" means a cable that connects each building or home to the nearest feeder line of the cable network.

12. "Normal business hours" means those hours during which most similar businesses in the community are open to serve subscribers. In all cases, "normal business hours," at a minimum, means those hours when the City Hall is open to serve citizens.

13. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include (but are not limited to) natural disasters, strikes, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include (but are not limited to) special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system.

14. "Outlet" means the point of connection of the cable or wire to a television.

15. "Person" means an individual, partnership, association, joint stock company, trust corporation or governmental entity.

16. "Private property" means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

17. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

18. "Public access channel" means channel capacity designated for non-commercial public access use.

19. "Public property" means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

20. "Public way" means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. "Public way" also means any easement now or hereafter held by the City within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purpose of installing and operating the Grantee's cable system over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

21. "Service area" means the present municipal boundaries of the City.

22. "Service interruption" means the loss of video or audio on one or more channels.

23. "Service tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

24. "Subscriber" means a person who lawfully receives services of the cable system with the Grantee's express permission.

112.02 FRANCHISE REQUIRED. Subject to Federal and State law, no person shall construct, install, maintain or operate within any public street in the City, or within any other public property of the City, any equipment or facilities for the distribution of television signals over a cable system to any subscriber, unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect.

112.03 GRANT OF FRANCHISE. The purpose of this chapter is to specify requirements for the establishment, construction, operation and maintenance of a cable system in the City pursuant to Chapter 364, Code of Iowa, and applicable Federal law. If a new applicant submits a proposal acceptable to the City, meets the requirements of this chapter, the requirements of the FCC and applicable State law, the City may then proceed to enter into a nonexclusive franchise agreement with such prospective Grantee, subject to the provisions of this chapter. If the incumbent operator submits a proposal acceptable under the terms of the Cable Act, and meets the requirements of the FCC, the City shall proceed to fulfill its obligations under Section 626 of the Telecommunications Act of 1996.

112.04 LENGTH OF FRANCHISE. The term of a franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be determined by the City in the Franchise Agreement.

112.05 SIGNIFICANCE OF FRANCHISE.

1. Franchise Nonexclusive. Any franchise granted hereunder by the City shall not be exclusive and the City reserves the right to grant a similar franchise to any qualified person at any time.

2. Privileges Must Be Specified. No privilege of exemption shall be inferred from the granting of any franchise, unless it is specifically prescribed.

3. Authority Granted. Any franchise granted hereunder shall give to the Grantee the right and privilege to construct, erect, operate, modify and maintain in, upon, along, above, over and under streets and public ways, as defined in Section 112.01 herein, which have been or may hereafter be dedicated and open to public use in the City, towers, antennas, poles, cables, electronic equipment, and other network appurtenances necessary for the operation of a cable system in the City, subject to the requirements of this chapter.

4. Subject to Other Regulatory Agencies' Rules and Regulations. The Grantee shall at all times during the life of any franchise granted

hereunder be subject to all generally applicable ordinances promulgated pursuant to the lawful exercise of the police power by the City.

5. Pole Use Agreements Required. Any franchise granted hereunder shall not relieve the Grantee of any obligation involved in obtaining pole or conduit-use agreements from the gas, electric and the telephone companies or others maintaining poles or conduits in the streets of the City.

6. Ordinance Revisions. Any franchises granted under this chapter are made subject to the lawful revisions of this chapter and this Code of Ordinances, provided that such revisions do not materially alter or impair the rights or the obligations of Grantee set forth in any Franchise Agreement and are mutually agreed to by the City and Grantees.

112.06 RIGHTS RESERVED TO THE CITY.

1. Right of Amendment Reserved to City. The City may from time to time add to, modify or delete provisions of this chapter as it shall deem necessary in the exercise of its lawful police powers and as may be mutually agreed to by the City and Grantee. Such additions or revisions shall be made only after a public hearing for which the Grantee shall have received written notice at least thirty (30) days prior to such hearing.

2. No Impairment of City's Rights. Nothing herein shall be deemed or construed to impair or affect in any way to any extent any right of the City pursuant to Iowa law.

3. Grantee Agrees to City's Rights. The City reserves every right and power which is required to be reserved or provided by an ordinance of the City, and the Grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or powers which have been or will be enacted or established subject to the provisions of subsection 1 of this section.

4. Police Powers of the City. Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver of any lawful governmental right or power of the City.

5. City Transfer of Functions. Any administrative right or power in or administrative duty imposed upon any elected official of the City shall be subject to transfer by the City to any other elected official, officer, employee, department or board.

6. City Right of Inspection. The City reserves the right, during the life of any franchise granted hereunder, to inspect and oversee all construction or installation work performed in the public right-of-way.

7. City Right of Network Installation. The City reserves the right during the life of any franchise granted hereunder to install and maintain for a reasonable charge upon or in the poles and conduits of the Grantee and pole fixtures necessary for municipal networks on the condition that such installation and maintenance thereof does not interfere with the operation of the Grantee. The Grantee agrees that such compensation or charge shall not exceed those paid by it to public utilities pursuant to the applicable pole attachment agreement or other authorization relating to the service area and such use shall be non-commercial and may not be supplied for any municipal use directly competing with the Grantee.

112.07 APPLICATION FOR FRANCHISE. No initial franchise may be granted unless the applicant has successfully completed the application procedure in accordance with the following filing instructions promulgated by the City:

1. Filing Fee. Payment of a non-refundable filing fee to the City of one hundred dollars ($100.00), which sum shall be due and payable at the time with the submission of the application.

2. Content. All applicants must complete an application which shall include (but not be limited to) the following:

A. Name and Address of Applicant. The name and business address of the applicant, date of application, and signature of applicant or appropriate corporate officer(s).

B. Description of Proposed Operation. A general description of the applicant's proposed operation, including but not limited to business hours, operating staff, maintenance procedures beyond those required in the chapter, management and marketing staff policies and procedures, and, if available, the rules of operation for public access.

C. Signal Carriage. A statement of the television and radio services to be provided, including both off-the-air and locally originated signals.

D. Special Services. A statement setting forth a description of the automated services proposed as well as a description of the production facilities to be made available by the Grantee for the public, governmental and educational channels required to be made available by the provisions of this chapter.

E. Corporate Organization. A statement detailing the corporation organization of the applicant, if any, including the names and addresses

of its officers and directors and the number of shares held by each officer and director.

F. Stockholders. A statement identifying the number of authorized outstanding shares of applicant's stock including a current list of the names and current addresses of its shareholders holding five percent (5%) or more of the applicant's outstanding stock.

G. Inter-Company Relationships. A statement describing all inter-company relationships of the applicant, including parent, subsidiary or affiliated companies.

H. Agreements and Understandings. A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other person with respect to any franchise awarded hereunder and the conduct of the operation thereof existing at the time of proposal submittal.

I. Financial Statement. A copy of the financial statements for the two (2) previous fiscal years.

J. Financial Projection. A five-year operations pro forma which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets, and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this chapter, but shall be separately identified in the pro forma.

K. Financial Support. Suitable written evidence from a recognized financial institution addressing applicant's financial ability and planned operation, and confirming that the financing institution is prepared to make the required funds available to applicant if it is awarded a franchise. If the planned operation is to be internally financed, a board resolution shall be supplied authorizing the obtainment and expenditure of such funds as are required to construct, install and operate the cable television system contemplated hereunder.

L. Construction Timetable. A description of system construction including the timetable for provision and extension of service to different parts of the City.

M. Technical Description. A technical description of the type of system proposed by the applicant, including but not limited to system configuration (i.e., hub, dual cable), system capacity, two-way capability, etc.

N. Existing Franchises. A statement of existing franchises held by the applicant indicating when the franchises were issued and when the cable systems were constructed and the present state of the cable systems in each respective governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant.

O. Convictions. A statement as to whether the applicant or any of its officers or directors or holders of five percent (5%) or more of its voting stock has in the past ten (10) years been convicted of or has any charges pending for any crime other than a routine traffic offense and the disposition of each such case.

P. Operating Experience. A statement detailing the prior cable television experience of the applicant, including that of the applicant's officers, management and staff to be associated, where known, with the proposed franchise.

Q. Supplementation to Applications. The City reserves the right to require such supplementary, additional or other information that the City deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the City.

R. Incorporation of Proposals. The Grantee, by the acceptance of any initial franchise awarded hereunder, agrees that the matters contained in the Grantee's application for franchise, except as inconsistent with the FCC rules and regulations, law or ordinance, shall be incorporated into the franchise as though set out verbatim.

S. Forfeiture of Proposal Bond. Should the Grantee fail to comply with the requirements of this section, it shall acquire no rights, privileges or authority under this chapter whatever, and the amount of the proposal bond or certified check in lieu thereof, submitted with its application, shall be forfeited in full to the City as liquidated damages.

112.08 ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE.

1. Franchise Acceptance; Procedures. Any initial franchise awarded hereunder or franchise renewal and the rights, privileges and authority granted thereby shall take effect and be in force from and after the award thereof, provided that the Grantee shall file with the City the following:

A. A statement by the Grantee of the unconditional acceptance of the franchise;

B. A certificate of insurance as set forth in Section 112.51;

C. Reimbursement to the City for the costs of publication of the franchise ordinance and the holding of the election connected therewith, if required by law.

2. Grantee to Have No Recourse. In accordance with Section 635A of the Cable Act, the Grantee shall have no monetary recourse whatsoever against the City for any loss, cost, expense, or damage arising out of any provision or requirement of this chapter or its regulation. This shall not include negligent acts of the City, its agents or employees which are performed outside the regulatory or franchise awarding authority hereunder.

3. Acceptance of Power and Authority of City. The Grantee expressly acknowledges that in accepting any franchise awarded hereunder, it has relied upon its own investigation and understanding of the power and authority of the City to grant this franchise.

4. Inducements Not Offered. The Grantee, by acceptance of any franchise awarded hereunder, acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or in behalf of the City concerning any term or condition of this franchise that is not included in this chapter and Franchise Agreement.

5. Grantee Accepts Terms of Franchise. The Grantee acknowledges by the acceptance of the franchise and the terms herein that it has carefully read said terms and conditions and it is willing to and does accept all other obligations of such terms and conditions and further agrees that it will not claim that any provision of this chapter, or any franchise granted hereunder, is unreasonable or arbitrary.

112.09 GEOGRAPHICAL COVERAGE. The Grantee shall provide a cable system in such manner as to pass and provide adequate tap off facilities for every single family dwelling unit, multiple dwelling unit or other residential unit within the service area, subject to the provisions of the Franchise Agreement.

112.10 CONDITIONS OF STREET OCCUPANCY. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways. A Grantee shall first obtain a permit from the City prior to commencing construction on the streets, alleys, public grounds or places and shall be on a form provided by the City. A Grantee shall not open or disturb the surface of any street, sidewalk, driveway or public place for any

purpose without having first obtained a permit to do so in the manner provided by ordinance. All excavation shall be coordinated with other utility excavation or construction so as to minimize disruption to the public.

112.11 RESTORATION OF PUBLIC WAYS. If during the course of the Grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

112.12 RELOCATION AT REQUEST OF CITY. Upon its receipt of reasonable advance notice, not to be less than ten (10) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the City; however, the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any person using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, the City shall provide notice to the Grantee of the City's application for such funds and shall allow the Grantee to apply on its own behalf for such funds.

112.13 SAFETY REQUIREMENTS. Construction, installation, and maintenance of the system shall be performed in an orderly and worker-like manner. All such work shall be performed in substantial accordance with applicable FCC or other Federal, State and local regulations and the *National Electric Safety Code*. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

112.14 UNDERGROUND AND OVERGROUND INSTALLATION REQUIREMENTS.

1. Pole Agreements. The Grantee may lease, rent, or in any other manner by mutual agreement obtain the use of towers, poles, lines, cables, and other equipment and facilities from utility companies operating within the City, and use towers, poles, lines, cables, and other equipment and facilities for the system. When and where practicable, the poles used by the Grantee's distribution system shall be those erected and maintained by such utility companies operating within the City, provided mutually satisfactory rental agreements can be reached. It is the City's desire that all holders of public franchises in the City cooperate with the Grantee and allow the Grantee the use of their poles

and pole line facilities whenever possible so that the number of new or additional poles installed in the City may be minimized.

2. Grantee's Poles. The Grantee shall have the right to erect, install, and maintain its own towers, poles, guys, anchors, underground conduits, and manholes as may be necessary for the proper construction and maintenance of the antenna site, headend, and distribution system, providing that the Grantee has at the worksite the necessary City permit or copy thereof, for scheduled work, obtained in advance from the appropriate Department of the City.

3. Rent of Grantee's Poles. A Grantee shall have the right to establish terms, conditions, and specifications governing the form, type, size, quantity, and location of equipment of others on its poles, and shall have the further right to charge a fair rental for attachment space or spaces occupied by the said equipment and plant of others, except that no rent shall be paid by the City for its attachment to the Grantee's poles and such use shall be non-commercial and may not be supplied for any municipal use directly competing with the Grantee. The City shall pay any costs incurred by a Grantee in providing space for a City's attachments, including any necessary rearrangements of a Grantee's equipment and plant to provide room for City's attachments. Upon expiration, termination, or revocation of a franchise, or should a Grantee wish to dispose of any of its poles, conduit or manholes being used by the City, the City shall have the option to purchase them in place for their fair market value.

4. Underground Facilities. In those areas of the City where transmission or distribution facilities of both telephone and power companies are underground or hereafter may be placed underground, the Grantee shall likewise construct, operate, and maintain all of its transmission and distribution facilities underground to the maximum extent the then existing technology permits, in accordance with the most recent *National Electrical Code*, and its successor document, as well as in conformance with all applicable State and municipal ordinances and codes. If and when necessary, amplifiers and/or transformers in the Grantee's transmission and distribution lines shall be in appropriate housings on the surface of the ground. The Grantee shall obtain a permit from the City for such underground construction of all work required or pursuant to this section. Even when not required, underground installation is preferable to the placing of additional poles.

5. Compliance with Codes. All transmission and distribution structures, lines, and equipment erected by the Grantee in the City shall be located so as not to endanger or interfere with the normal use of

streets, alleys, or other public ways and places so as to cause minimum interference with the rights or reasonable convenience of the general public and adjoining property owners and so as not to interfere with existing public utility installations and so as to comply with the most recent *National Electrical Code*, as amended, as well as in conformance with all applicable State and municipal ordinances and codes of general applicability. In the case of any disturbance by the Grantee or its equipment of pavement, sidewalks, driveway, lawn, or other surfacing the Grantee shall, at its expense and in the manner required by the City, promptly replace and restore all such surfacing to a reasonably comparable condition. The construction, installation, operation, maintenance and/or removal of the cable communications system shall meet all of the following safety, construction, and technical specifications and codes and standards:

- Occupational Safety and Health Administration Regulations (OSHA)
- *National Electric Code*
- *National Electrical Safety Code* (NESC)
- All Federal, State and Municipal Construction Requirements, including FCC Rules and Regulations
- All Building and Zoning Codes, as the same exist or may be amended hereafter
- City Standard Specifications

6. Interference with Other Utilities. The Grantee shall not place poles, conduits, or other fixtures above or below ground where the same shall interfere with any prior placement of gas, electric, telephone fixtures, water hydrant, or other utilities, and all such poles, conduits, or other fixtures above or below ground shall be so placed as to comply with all the lawful requirements of the City.

7. Moving Permits. The Grantee shall, on request of any persons holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid in advance by the person requesting the same, and the Grantee shall be given not less than seven (7) business days' advance notice to arrange for such temporary changes.

8. Authority to Trim Trees and Shrubbery. The Grantee shall have the authority under the supervision and direction of the City to trim trees or other natural growth overhanging any of its cable system in the street or alley right-of-way so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. The Grantee shall reasonably compensate the City or property owner for any damages

caused by such trimming, or shall, in its sole discretion, and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the cable system undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to the City pursuant to the terms of this section.

9. Service Area. The Grantee shall design and construct the cable system in such a manner as to pass by and provide adequate tap-off facilities for every single family dwelling, multiple family dwelling, apartment, school and government building located within the City limits, based upon the corporate boundaries at the time of the granting of the franchise, provided that such locations meet the density requirements pursuant to Section 112.15 – Extension of Service.

10. Underground Construction. Grantee shall participate in and use *Iowa One Call* and ensure that cable is buried pursuant to standards established by Iowa One Call or any state mandated successor agency.

11. Temporary Drops. Temporary drops shall be buried within two months of installation, except during the winter months which shall be defined as November 15 to April 1. In the event that the Grantee fails to bury any cable drops, within the two-month period, the Grantee shall provide basic and expanded basic cable service without charge to the affected cable subscriber from the last date that the drop was to have been buried to that actual date that it is buried.

12. Closing of Streets. The Grantee shall not be entitled to damages from the City sustained by the virtue of the closing, vacation, or relocation of any streets or alleys.

13. Private Easements. No cable, line, wire, amplifier, converter or other pieces of equipment owned by the Grantee shall be installed by the Grantee within private easements without first securing the written permission of the owner, lessee or tenant of the property involved, unless a private easement is determined to be available for use by the Grantee in accordance with applicable law.

112.15 EXTENSION OF SERVICE. Any franchise granted pursuant to this chapter shall require that a Grantee, at its expense, promptly extend its system to have service available to all potential subscribers of:

1. The corporate limits of the City of Guttenberg and newly annexed areas to the City, not then served by a cable system, where the average density is at least six (6) potential subscribers per lineal one-quarter mile of the proposed trunk and feeder cable route; and

2. Any new single family dwelling unit, commercial establishment, or potential subscriber within 300 feet of the existing distribution system in the City, upon request of the potential subscriber.

No customer shall be refused service arbitrarily. However, for unusual circumstances, such as: (i) existence of more than 300 feet of distance from the distribution cable to the connection point of service to the customers; or (ii) a density of less than six potential subscribers per 1320 feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in the aid of construction to be borne by the Grantee and the customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per one-quarter mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet of its trunks or distribution cable, and whose denominator equals six (6) potential subscribers. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of the construction borne by such potential customers be paid in advance.

112.16 SERVICE TO PUBLIC BUILDINGS. Any Grantee shall upon request, provide without charge, one outlet of basic service and expanded basic service to those public buildings identified in the franchise agreement in accordance with the terms set forth in the franchise agreement.

112.17 CUSTOMER SERVICE STANDARDS - FCC MODEL. Any Grantee shall adhere to the FCC's customer service standards. A copy of such standards effective as of the date of the passage of the ordinance codified in this chapter is on file at City Hall.

112.18 LOCAL PAYMENT CENTER. A Grantee shall establish a payment drop box center located at City Hall, which shall be open during normal business hours.

112.19 DEPOSITS. If required by Federal law, a Grantee shall bear interest at the minimum lending rate required by law on any subscriber deposit or a rate equal to that paid by the City for electric deposits.

112.20 SUBSCRIBERS' ANTENNAS. A Grantee shall not require the removal of any potential or existing subscriber's antenna as a condition of provision of service, except with the consent of the cable subscriber.

112.21 DISCONNECTION. There shall be no charge for a disconnection of cable service. If any subscriber fails to pay a fee or charge, a Grantee may disconnect the subscriber's service. Such disconnection shall not be effected until the subscriber has been given ten days' advance written notice of the intention to disconnect. After disconnection, upon payment of any required delinquent fee or reconnection charge, the Grantee shall reinstate the subscriber's service.

112.22 RECONNECTIONS. A Grantee shall restore service to customers wishing restoration of service, provided customer shall first satisfy any previous obligations owed.

112.23 DOWNGRADES. Subscribers shall have the right to have cable service disconnected or downgraded in accordance with FCC rules. The reduced billing for such service will be in accordance with the Grantee's policies communicated with subscribers, but not in excess of seven (7) days, and such disconnection or downgrade shall be made as soon as practicable. A refund of unused service charges shall be paid to the customer within thirty (30) days from the date of termination of service.

112.24 TERMINATION OF SERVICE. Within 30 days of termination of service to any subscriber for any reason, a Grantee may, upon the subscriber's written request, promptly remove all its aerial facilities and equipment from the subscriber's premises, pursuant to FCC rules and regulations.

112.25 NOTIFICATION TO CITY OF SERVICE INTERRUPTIONS. A Grantee shall promptly notify the City, in writing, or, if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" means any interruption of audio or video on one or more channels for a duration of at least one hour to at least fifty percent (50%) of the subscribers, or an interruption of audio or video on at least one or more channels initiated by the Grantee of at least six hours to any single subscriber. The Grantee shall not be required to provide specific notice to the City of service interruptions in the case of a cable system upgrade.

112.26 SUBSCRIBER CREDIT FOR SERVICE INTERRUPTIONS. Upon service interruption of subscriber's cable service, the following shall apply:

1. For service interruptions of over four hours and up to seven days, the Grantee shall provide, at the subscriber's verbal or written request, a credit of one-thirtieth (1/30) of one month's fees for affected services for

each 24-hour period service is interrupted for four or more hours for all affected subscribers.

2. For interruptions of 15 days or more in one month, the Grantee shall provide, at the subscriber's request, a full month's credit for affected services for all affected subscribers.

112.27 SERVICE REPAIR STANDARDS. A Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled service interruptions, insofar as possible, shall occur during periods of minimum use of the cable system. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions, as required by this chapter.

112.28 REFUNDS TO SUBSCRIBERS.

1. If a Grantee fails to provide any material service requested by a subscriber in accordance with the current FCC standards, the Grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber.

2. If any subscriber terminates for any other reason, a Grantee shall refund the unused portion of any prepaid subscriber service fee on a daily pro rata basis. The effective date used to pro rate such refunds shall be the date that the subscriber contacts the Grantee or a mutually agreed upon date consistent with communicated customer policies printed on the cable rate cards provided by the Grantee.

3. Any disputes arising under this section shall be resolved in accordance with Section 112.46 of this chapter.

112.29 CHANNEL CARD. The Grantee shall distribute to all subscribers via direct mail or bill stuffers no less than annually an accurate and up-to-date channel card listing the cable channels and services available over the cable system. A revised channel card shall be distributed via a newspaper of record within thirty (30) days after a change or addition in channels or services offered affecting two (2) or fewer channels. Whenever changes in channels or services have affected three or more channels since the last channel card distributed via direct mail or bill stuffers, then a new channel card shall be distributed to every subscriber within thirty (30) days via direct mail or bill stuffers.

112.30 CUSTOMER HANDBOOK. A Grantee shall provide written customer policies or a handbook to all new subscribers, and thereafter, upon request. Grantee's written customer policies or handbook shall, at a minimum,

comply with all notice requirements in this chapter and those promulgated by the FCC. If Grantee's operating rules are changed, subscribers shall be notified in a timely manner.

112.31 SUBSCRIBER PRIVACY. A Grantee shall abide by current Federal law and FCC regulations and Section 631 of the Cable Act regarding protection of subscriber privacy.

112.32 DISCRIMINATORY OR PREFERENTIAL PRACTICES. A Grantee shall not, in making available the services or facilities of its cable system, or in its rules or regulations, or in any other manner, make or grant preferences or advantages to any subscriber or potential subscriber, or to any user or potential user, and shall not subject any person to any prejudice or disadvantage, based on their race, color, national origin or gender. This provision shall not prohibit promotional campaigns to stimulate subscriptions to the cable system or other legitimate uses thereof, nor the establishment of a graduated scale of charges and classified rate schedules to which any subscriber coming within such classification shall be entitled.

112.33 IDENTIFICATION OF EMPLOYEES. Every field service and installation employee of the Grantee shall be clearly identified by an identification card, badge or uniform shirt. All employees of Grantee shall display proper identification upon request of a subscriber, provided that the City requires all utilities operating in the City to do the same. Every field service and installation vehicle of the Grantee shall be clearly marked by logo or decals.

112.34 SYSTEM DESIGN AND EQUIPMENT REQUIREMENTS.

1. Switching Device. A Grantee, upon request from any subscriber, shall install at a reasonable charge a switching device to permit a subscriber to continue to utilize the subscriber's television antenna. The Grantee shall not require the removal, or offer to remove, any subscriber's antenna lead-in wire.

2. Parental Control Devices. Upon request, and within 120 days, Grantee shall provide at a reasonable charge to subscribers, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible. The lockout device described herein shall be made available to all subscribers requesting it beginning on the first day that any cable service is provided.

3. Public, Educational and Governmental Channels. The Grantee shall provide specially dedicated, non-commercial education and

government channel capacity, as specified in the franchise agreement, to be made available to the public, groups, and individuals on a first-come, non-discriminatory basis. Such channels shall be operated in accord with FCC rules and regulations. The Grantee shall make no charge for use of such channel. The City or its designee shall exercise sole control over the operation and shall establish rules providing for access to the education and government channel.

4. Access Equipment and Facilities Fee. If authorized by the City, and after sixty (60) days' notice from the City to a Grantee, a Grantee shall provide ongoing support for public, educational, and governmental access equipment and facilities in the amount of not to exceed one dollar ($1.00) per subscriber per month for the entire term of the franchise, payable in the same manner as the franchise fee payment pursuant to Section 112.35 hereof. The City acknowledges that this amount shall not be considered gross revenues subject to the payment of franchise fees pursuant to Section 112.35 hereof. Furthermore, payments of this ongoing support shall not be deemed to be "franchise fees" within the meaning of Section 622 of the Cable Act and such payment shall not be deemed to be "payments-in-kind" or any involuntary payments chargeable against the compensation to be paid to the City by a Grantee pursuant to Section 112.35 hereof. A Grantee shall be allowed to collect such fee as a pass through to cable subscribers. This fee shall be revised on an annual basis in accordance with the Consumer Price Index.

5. Leased Access Channels. Any Grantee shall make a portion of the remaining unused channels available for lease as required by Section 612 of the Cable Act.

6. Interference. The Grantee's cable system shall be designed, engineered, and maintained so as not to interfere with the television and radio reception of residents of the City who are not subscribers on the cable system.

7. Additional Services. The Grantee is encouraged to make available such additional video, audio, radio, digital, point-to-point service, and other services as are requested by subscribers and programmers who are willing to pay for such services, provided that such services are technologically and economically feasible. If no applicable rate exists when such a service is requested, the rate change procedures established in Section 112.36 shall be followed.

8. Technical Standards. The cable system shall be operated and maintained in compliance with FCC Rules and Regulations Technical Standards K of Part 76 of Chapter 1 of Title 47 of the Code of Federal Regulations, as revised or amended from time to time and on file at City

Hall. FCC proof of performance test results shall be delivered to the City annually or upon written request of the City. Grantee shall file a copy of test results performed by the FCC or other governmental regulatory agencies on the cable system with the City.

9. Filing of Maps. Upon request of the City, the Grantee shall file with the City strand maps, showing the location of all property and facilities of the Grantee within the City. All maps supplied by the Grantee shall be considered confidential and proprietary.

112.35 FRANCHISE FEE.

1. Franchise Fee Payment. In consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a cable system within the City, the Grantee shall pay to the City an annual amount equal to three percent (3%) of the Grantee's gross revenues as defined in Section 112.01 of this chapter.

2. Quarterly Payments. Payment due to the City under the franchise agreement shall be made quarterly at the City Clerk's office not later than forty-five (45) days following March 31, June 30, September 30 and December 31 of each year. Any fee not paid when due shall bear interest at a rate of one and one-half percent (1½%) per month from the date due. Each payment shall be accompanied with a detailed report, the form of which is on file at City Hall, showing the basis for the computation, and shall include (but not be limited to) a specific breakdown of the following items: basic tier service charges, expanded basic service charges, installation charges, reconnection fees, premium channel revenues, revenue from other sources such as contracted or subleased cable services, pay per view, miscellaneous revenue, and such other relevant facts, as may be required by the City, necessary to determine the accuracy of the franchise payment as specified in of this chapter. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the Grantee. All amounts paid shall be subject to audit and recomputation by the City. The Grantee shall permit the City, upon request with reasonable notice, to review at Grantee's local office its gross revenue records as may be necessary to monitor compliance with Section 112.35 of this chapter.

3. Franchise Fee Audit. A Grantee will fully cooperate with a franchise fee audit performed by a professional firm that is chosen by the City. The costs associated with the audit will be paid for by the City, except that the Grantee shall pay for the costs if the audit shows an

underpayment of franchise fees in excess of five percent (5%) or more for a reporting period.

4. Franchise Fee Increases. The City may request an increase in franchise fees at any time during the term of the franchise, equal to the maximum percentage allowed by Federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the City shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fee.

5. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be five years from the date on which payment by a Grantee is due.

112.36 RATES AND CHARGES. The City may regulate rates for the provision of basic cable and equipment as permitted by the Cable Act. Any rate adjustments shall be filed with the City Clerk not later than 30 days prior to the implementation of the adjustment.

112.37 FRANCHISE RENEWAL. Any proceedings undertaken by the City that relate to the renewal of a Grantee's franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of Federal or State law.

112.38 CONDITIONS OF SALE. If a renewal or extension of a Grantee's franchise is denied or the franchise is lawfully terminated, and the City either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at a price determined pursuant to the provisions set forth in Section 627 of the Cable Act. In the case of a final determination of a lawful revocation of the franchise, at the Grantee's request, which shall be made in its sole discretion, the Grantee shall be given a reasonable opportunity to effectuate a transfer of its system to a qualified third party. During such a period of time the City shall authorize the Grantee to continue to operate pursuant to the terms of its prior franchise. However, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its system which is reasonably acceptable to the City, the Grantee and the City may avail themselves of any rights they may have pursuant to Federal or State law. The

Grantee may continue to operate its system during the six-month period and it shall not be deemed to be a waiver or extinguishments of any right of either the City or the Grantee.

112.39 TRANSFER OF FRANCHISE.

1. Transfer of Franchise. Any franchise granted under this chapter shall be a privilege to be held for the benefit of the public. Any franchise so granted cannot, in any event, be sold, transferred, leased, assigned or disposed of, including, but not limited to, by forced or voluntary sale, except to an entity controlling, controlled by or under common control with the Grantee, without the prior written consent of the City. Such consent shall be given or denied no later than one hundred twenty (120) days following any request and shall not be unreasonably withheld. Prior consent shall not be required when transferring the franchise between wholly owned subsidiaries of the same entity. Nor shall such consent be required for a transfer in trust, by mortgage, by other hypothecation, or assignment of any rights, title, or interest of the Grantee in the cable system in order to secure indebtedness.

2. Ownership or Control. In the event that the Grantee sells or otherwise transfers ownership in the cable system, such sale or transfer shall conform to Section 617 of the Cable Act. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the City may in accordance with Section 617 inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the City in any such inquiry. In seeking the City's consent to any change in ownership or control, the transferee shall have the responsibility:

A. To show to the satisfaction of the City whether the proposed purchaser, transferee, or assignee (the "proposed transferee), which in the case of a corporation shall include all directors and all persons having a legal or equitable interest of fifty percent (50%) or more of the voting stock:

- Has ever been convicted or held liable for acts involving moral turpitude including, but not limited to, any violation of Federal, State or local law or regulations, or is presently under an indictment, investigation or complaint charging such acts;
- Has ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him, or them by any court of competent jurisdiction; or

- Has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system.

The City retains the right to withhold approval of the transfer until the transferee has provided the information required in this subsection.

B. To establish the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee and such other data to determine the legal, financial, and technical qualification of the transferee.

C. To establish that the technical capability of the proposed transferee is such as shall enable it to maintain and operate the cable system for the remaining term of the franchise under the existing franchise terms.

3. Any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the City that the financial institution, or its designee, as approved in writing by the City, shall take control and operate the cable system in the event of a Grantee default in its financial obligations. Further, said financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the cable system for a period exceeding one (1) year, unless extended by the City at its discretion, but during said period of time it shall have the right to petition the City to transfer the franchise to another Grantee. Except insofar as the enforceability of this subsection may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors rights generally, and further subject to applicable Federal, State or local law, if the City finds that such transfer, after considering the legal, financial, character, technical and other public interest qualities of the proposed transferee, is satisfactory, the City shall transfer and assign the right and obligations of such franchise as in the public interest.

4. The consent or approval of the City to any transfer by the Grantee shall not constitute a waiver or release of the rights of the City in and to the streets, and any transfer shall by its terms, be expressly subject to the terms and conditions of any franchise.

5. In no event shall a transfer of ownership or control be approved without the successor in interest becoming a signatory of the City.

6. The City may approve the transfer or deny the transfer pursuant to Section 617 of the Cable Act.

7. When the City approves a transfer under this section, the new Grantee shall indicate acceptance of the franchise as specified in Section 112.08, including the filing of all necessary bonds, funds, proofs of insurance and certifications.

8. The restrictions of this section shall be effective immediately upon execution of a franchise agreement.

112.40 RIGHT OF INSPECTION OF CONSTRUCTION. The City shall have the right to visually inspect all construction or installation work performed subject to the provisions of this chapter and to make such visual inspections as it shall find necessary to ensure compliance with the terms of this chapter and other pertinent provision of law.

112.41 NEW DEVELOPMENTS. The Grantee is encouraged to upgrade its facilities, equipment and service so that its cable system is as advanced as the current state of production technology will allow. New developments shall be a topic of discussion at all review sessions and shall be a factor to be considered in connection with requests for rate adjustments, pursuant to FCC rules and regulations.

112.42 TESTING FOR COMPLIANCE. The Grantee shall meet or exceed all FCC minimum performance and technical standards. The City shall have the right to compel the Grantee to provide results of Grantee's testing of the cable system. In the event that the City has evidence of non-compliance, the City may also perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the cable system in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable State or Federal laws. Such tests may be undertaken only after giving the Grantee reasonable notice thereof, not to be less than ten business days, and providing a representative of the Grantee has an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that the Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the City. Except in emergency circumstances, the City agrees that such testing shall be undertaken no more than once a year, and that the results thereof shall be made available to the Grantee. Any such special performance tests or measurements required by the City shall be reported to the City within fourteen (14) business days after such test or measurements are performed. Such report

shall include the following information: the nature of the complaint which precipitated the special tests; what system component was tested, the equipment used, and procedures employed in said testing; the results of such tests; and the method in which such complaints were resolved. Any other information pertinent to the special test shall be recorded.

112.43 BOOKS AND RECORDS. The City or its certified public accountant upon reasonable notice to the Grantee may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature under State and Federal rules of evidence. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

112.44 COMMUNICATIONS WITH REGULATORY AGENCIES. Copies of all petitions, applications, communications, reports, and all other documents pertaining to the cable system and franchise submitted by the Grantee or its parent companies to the FCC, Securities Exchange Commission, or any other Federal or State regulatory commission or agency shall be made available to the City upon written request to the Grantee.

112.45 COMPLAINT RECORDS. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions or complaints regarding system service problems. The Grantee shall maintain detailed logs setting forth the date and substance of each service interruption or complaint regarding the system service problems received by phone, mail or other means during the preceding calendar month, and the date and nature of action taken by the Grantee to respond to such complaints, or, if still pending, the status thereof. Such logs shall be available to the City for review for two years thereafter. A "complaint" as used herein shall be a written complaint from a subscriber regarding signal quality or service, but not regarding programming or rates which, in the case of oral complaints is not resolved within the original telephone call or visit from the subscriber.

112.46 CITY ROLE IN COMPLAINTS. Unresolved complaints concerning the system or its operation or maintenance may be directed to the City Clerk. The procedure to handle complaints shall be as follows:

1. Within 30 days from the occurrence of the facts and circumstances giving rise to a complaint or grievance, the complainant shall state the complaint or grievance to the Grantee in writing. In the event such a complaint or grievance is received by the City, the same shall be forwarded to Grantee in writing.

2. Within five (5) business days from the receipt by the Grantee of a complaint from the City, the Grantee shall state to complainant its intentions with respect to the complaint in writing.

3. Unresolved complaints concerning the system or its operation or maintenance shall be directed to the City. The City shall promptly forward the complaint to the Grantee or shall take the question up by correspondence with the Grantee. Within such time as may be reasonably prescribed by the City, the Grantee shall resolve the complaint or advise the City of its refusal or inability to do so. When the Grantee resolves the complaint, it shall so notify the City. If a complaint has not been resolved, the City may take any appropriate action authorized by this chapter.

4. All subscribers shall be notified by the Grantee of the City's role as the regulatory authority on the monthly cable bills.

5. Nothing herein shall limit or alter the requirement or requirements contained in this chapter for customer service standards on file in City Hall.

6. The City shall be notified of action taken to resolve grievances or complaints, if the complaint was referred by the City under this section.

112.47 PERFORMANCE TESTING. Grantee shall perform all cable system tests and maintenance procedures as required by the FCC and this chapter.

112.48 REVIEW SESSIONS.

1. Purpose of Review Sessions. In recognition of the fact that a great many technical, financial, marketing and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the City to provide for a maximum feasible degree of flexibility in a franchise throughout its term to achieve an advanced and modem cable system for the City. The principal means for accomplishing this flexibility will be the scheduled review sessions

provided for in this chapter. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems that develop. Furthermore, such review sessions shall be two-way processes. For example, if either party has perceived that some major problem has developed, the session shall be devoted primarily to working out solutions acceptable to both parties.

2. Topics to be Covered. The City and the Grantee shall hold scheduled review sessions on the third, sixth, and ninth anniversary dates of the effective date of the franchise agreement. All such review sessions shall be open to the public and notice thereof shall be published once, not less than four (4) days or more than twenty (20) days before each review session, as provided by law. The published notice shall specify the topics to be discussed. The review sessions may be canceled by mutual agreement of the City and Grantee. The following topics may be discussed at every scheduled review session:

- Recent and developing judicial and federal communications rulings service rate structures
- Free and discounted services
- Application of new technology or new developments cable system performance
- Cable system extension policy
- Services provided
- Programming offered
- Customer complaints review
- Community development and education interconnection
- New services
- Subscriber privacy abuse issues new developments
- Franchise fees

Other topics, in addition to those listed, may be added by either party. Members of the general public may also request additional topics.

112.49 REGULATORY RESPONSIBILITY. The City, acting alone or acting jointly with other franchising authorities, may exercise or delegate the following responsibilities:

1. Administering the provision of a cable system franchise,

2. Coordinating the operation of a local access channel and facilities,

3. Providing technical, programming and operational support to public agency users, such as government departments, schools and health care institutions,

4. Establishing jointly with a Grantee, or as otherwise specified in the franchise agreement, procedures and standards for use of channels dedicated to public use and the sharing of public facilities, if provided for in any franchise agreement,

5. Planning the expansion and growth of public benefit cable services,

6. Analyzing the possibility of integrating cable systems with other local, regional or national telecommunications networks,

7. Formulating and recommending long-range telecommunications policy.

112.50 ANNUAL REPORT. No later than ninety (90) days after the close of a Grantee's fiscal year, and upon written request, the Grantee shall submit a detailed written informative report to the City, including the following information:

1. A summary of the previous year's activities in development of the cable system, including, but not limited to, services begun or dropped and newly served geographic areas within the City limits.

2. A summary of complaints, identifying the number and specific nature of complaints and their disposition.

3. A list of key management for the Guttenberg franchise along with their addresses and job titles.

4. The annual report of the parent company, if a public corporation. Such report shall be construed to mean the report of the previous year.

5. The total estimated annual value of the potential revenue from cable services provided in the service area without charge or provided under a barter arrangement, along with the total estimated number of persons who are provided cable services in the service area without charge or under a barter agreement.

112.51 INSURANCE AND INDEMNIFICATION.

1. Indemnification. Any Grantee shall defend, indemnify, protect, and hold harmless the City from and against any and all liability, losses, and damage to property or bodily injury or death to any person, including payments made under workmen's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance, or operation of Grantee's cable system and caused by any act or failure to act on the part of the Grantee, its agents, officers, servants, or employees. The City shall give the Grantee written notice of its obligation to indemnify, within 30 days following service of

a petition or other similar pleading. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

2. Insurance Coverage and Notifications. A Grantee shall maintain insurance in such amounts and kinds of coverage as may be specified by the City in the franchise agreement. Such coverage may be reasonably adjusted by the City with ninety-day notification, provided that the City demonstrates the need for increases in coverage. The Grantee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa. All policies shall name the City, its employees, servants, agents, and officers as additional insured parties. Each policy shall provide that it may not be canceled nor the amount of coverage altered until thirty (30) days after receipt by the City Clerk of a registered mail notice of such intent to cancel or alter coverage. The Grantee shall provide a certificate of insurance designating the City as an "additional insured." The Grantee shall maintain and provide to the City proof of public liability insurance for not less than the amounts specified in the franchise agreement.

3. Insurance for Contractors and Subcontractors. Any Grantee shall provide coverage for any contractor or subcontractor involved in the construction, installation, maintenance or operation of its cable system by either obtaining the necessary endorsements to its insurance policies or requiring such contractor or subcontractor to obtain appropriate insurance coverage consistent with this section and appropriate to the extent of its involvement in the construction, installation, maintenance or operation of the Grantee's cable system.

112.52 FORECLOSURE. A foreclosure or other judicial sale of all or part of the system shall be treated as a change in control of the Grantee and the provision of Section 112.57(7) of this chapter shall apply.

112.53 RECEIVERSHIP. The City shall have the right to cancel this franchise 120 days after the appointment of a receiver or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, or less:

1. Within 120 days after being elected or appointed, such receiver or trustee shall have fully complied with all provisions of this chapter and remedied all defaults thereunder; and

2. Shall have executed an agreement, approved by the court having jurisdiction, whereby such receiver or trustee agrees to be bound by this chapter and the franchise granted to the Grantee.

112.54 CONTINUITY OF SERVICE.

1. Right to Continuous Service. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to rebuild, modify, or sell the cable system, or the City gives notice in accordance with the franchise or this chapter of intent to terminate or fails to renew this franchise, the Grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service for six months. In the event of a change of Grantee, or in the event a new operator acquires the cable system, the original Grantee shall cooperate with the City, new Grantee or operator in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to the revenue for any period during which it operates the cable system, and shall be entitled to reasonable costs for its services when it no longer operates the cable system.

2. Right of City to Operate Cable System. In the event Grantee fails to operate the system for seven (7) consecutive days without prior approval of the City or without just cause, the City may, working in conjunction with any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise, operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the City or a permanent operator is selected. If the City is required to fulfill this obligation for the Grantee, then during such period as the City fulfills such obligation, the City shall be entitled to a reasonable management fee.

112.55 FRANCHISE PROCESSING COSTS.

1. Initial Franchises. For an initial franchise awarded, the costs to be borne by the Grantee shall include (but shall not be limited to) all costs of publication of notices prior to any public meeting, publication of relevant ordinances and franchise agreements, incurred by the City.

2. Franchise Renewal. For a franchise renewal, the Grantee shall reimburse the City the cost of publication of notices, publication of relevant ordinances, and publication of franchise agreements.

3. Franchise Transfer. For a franchise transfer, the transferee shall reimburse the City the cost of publication of notices, publication of

relevant ordinances and publication of franchise agreements. The City reserves the right to withhold approval of such transfer until all costs have been reimbursed by the transferee.

4. Other Costs. The publication costs provided for in this section shall be in addition to any other inspection or permit fee or other fees due to City under any other ordinance of general applicability.

112.56 TAXES. Subject to Federal and State law, the Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other generally applicable charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

112.57 ENFORCEMENT AND TERMINATION OF FRANCHISE.

1. Notice of Violation. In the event that the City believes that the Grantee has not complied with the terms of the franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 1: (a) to respond to the City, contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 1 pursuant to the procedures set forth in subsection 2, or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to subsection 2 above, the City shall schedule a public hearing to investigate the default. The City shall notify the Grantee in writing of the time and place of such meeting no less than five business days in advance and provide the Grantee with an opportunity to be heard.

4. Enforcement. Subject to applicable Federal and State law, in the event the City, after such public hearing, determines that the Grantee is in default of any provision of the franchise, the City may:

A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;

B. Commence an action at law for monetary damages or seek other equitable relief; or

C. In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked in accordance with the procedures outlined in this section.

The City shall give written notice to the Grantee of its intent to revoke the franchise on the basis of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response satisfactory from the Grantee, it may then seek termination of the franchise at a public meeting. The City shall cause to be served upon the Grantee, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination. At the designated meeting, the City shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the City *de novo* and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

5. Prompt Compliance. The Grantee shall not be relieved of its obligation to comply with this chapter by reason of the City's failure to enforce prompt compliance.

6. Impossibility of Performance. A Grantee shall not be held in default or noncompliance with the provisions of the franchise, or suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by the following circumstances if reasonably beyond its control:

A. Necessary utility rearrangements, pole change-outs or obtainment of easement rights,

B. Governmental or regulatory restrictions,

C. Lockouts,

D. War,

E. National emergencies,

F. Fire,

G. Acts of God.

H. Strikes

7. Termination of Franchise.

A. Grounds for Revocation. The City reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

(1) If the Grantee should default in the performance of any of its material obligations under this chapter or the franchise and fails to cure the default within sixty (60) days after receipt of written notice of the default from the City, or such longer time as specified by the City.

(2) If a petition is filed by or against the Grantee under the Bankruptcy Act or any other insolvency or creditors' rights law, State or Federal, and the Grantee shall fail to have it dismissed.

(3) If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets.

(4) If the Grantee makes an assignment for the benefit of creditors.

(5) If the Grantee violates any order or ruling of any State or Federal regulatory body having jurisdiction over the Grantee, unless the Grantee or any party similarly affected is lawfully contesting the legality or applicability of such order or ruling and has received a stay from a Court of appropriate jurisdiction.

(6) If the Grantee evades any of the provisions of this chapter or the franchise agreement.

(7) If the Grantee practices any intentional fraud or deceit upon the City or cable subscribers.

(8) If the Grantee materially misrepresents facts in the application for a franchise.

(9) If the Grantee ceases to provide services over the cable system for seven consecutive days for any reason within the control of the Grantee.

B. Restoration of Property. In removing its plant, structures and equipment, the Grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good

condition as that prevailing prior to the Grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. The City shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance indemnity provided in Section 112.51 and the performance bond in Section 112.59 shall continue in full force and effect during the period of removal.

C. Reimbursement of Costs. Pursuant to subsections l and 2 of this section, in the event of a failure by the Grantee to complete any work as required above or any work required by law or ordinance within the time established and to the reasonable satisfaction of the City, after due notice and opportunity to cure, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within thirty (30) days after receipt of an itemized list of such costs or the City may recover such costs as provided in Section 112.58.

112.58 SECURITY FUND.

1. Within ten (10) days after execution of the franchise agreement, the Grantee shall deposit with the City Clerk, and maintain on deposit through the term of the franchise, the sum of $10,000.00 as security for the faithful performance by it of all the provisions of the franchise and compliance with all orders, permits, and directions of any agency of the City having jurisdiction over its acts or defaults under the franchise, and the payment by the Grantee of any claims, liens, and taxes due the City which arise by reason of the construction, operation, or maintenance of the system.

2. Within ten (10) days after notice that any amount has been withdrawn from the security fund deposited pursuant to subsection 1 of this section, the Grantee shall pay to, or deposit with, the City Clerk a sum of money sufficient to restore such security fund to the original amount of $10,000.00.

3. If the Grantee fails to pay to the City any compensation within the time fixed herein; or fails after ten (10) days' notice to pay to the City any taxes due and unpaid; or fails to repay to the City within such 10 days, any damages, costs, or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with the franchise; or fails after three (3) days' notice of such failure by the City to comply with any provision of the franchise which the City reasonably determines can be remedied by an expenditure of the security, the City Clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such

withdrawal, the City Clerk shall notify the company of the amount and date thereof.

4. The security fund deposited pursuant to this section shall become the property of the City in the event that the franchise is canceled by reason of the default of the Grantee. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the franchise, provided that there is then no outstanding default on the part of the Grantee. Interest earned by the investment of the security fund will accrue to the Grantee.

5. The rights reserved to the City with respect to the security fund are in addition to all other rights of the City, whether reserved by the franchise or authorized by law, and no action, proceeding, or exercise of a right with respect to such security fund shall affect any other right the City may have.

112.59 FAITHFUL PERFORMANCE BOND. Upon acceptance of a franchise, the Grantee shall submit and maintain throughout the term of the franchise, a faithful performance bond in the amount of one hundred thousand dollars ($100,000.00). The bond shall insure compliance with all applicable laws, regulations, ordinances and provisions of this permit, shall provide for recoverable loss or damages, compensation, indemnification, reasonable attorney fees, cost of removal or abandonment of Grantee's property, and shall cover penalties of one hundred dollars ($100.00) per day for failure to meet the construction requirements of any franchise agreement.

112.60 VIOLATIONS AND PENALTIES. If the Grantee fails to comply with the requirements of this cable franchise regulatory ordinance, and a cable franchise agreement, then the City may invoke and secure compliance in accordance with Chapter 3 of this Code of Ordinances and as authorized by Section 364.22 of the Code of Iowa.

112.61 ACTIONS OF PARTIES. In any action by the City or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

112.62 EQUAL PROTECTION. In the event the City enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that

one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

112.63 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by a franchise to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid or express mail service.

112.64 WAIVER OR EXEMPTION. The City reserves the right to waive provisions of this chapter or exempt all Grantees from meeting provisions of this chapter, if the City determines such waiver or exemption is in the public interest.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 Definitions
113.02 Term of Franchise
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113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Basic cable" is the lowest priced tier of service that includes the retransmission of local broadcast television signals and any public, educational and governmental access channels.

2. "Cable Act" means collectively the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996.

3. "Cable operator" is as defined in the Cable Act.

4. "Cable service" is as defined in the Cable Act.

5. "Cable system" is as defined in the Cable Act.

6. "FCC" means Federal Communications Commission or successor governmental entity thereto.

7. "Franchise" means the initial authorization or renewal thereof, issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system.

8. "Grantee" means Mediacom Iowa LLC, or the lawful successor, transferee or assignee thereof.

9. "Gross revenues" means any and all revenue received by the Grantee from the operation of the cable system to provide cable service to subscribers in the service area, provided, however, that such phrase does not include any fees or franchise fees or taxes which are imposed directly or indirectly on any subscriber thereof by any governmental unit

or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

10. "Headend" means the land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a cable system.

11. "House drop" or "drop" means a cable that connects each building or home to the nearest feeder line of the cable network.

12. "Normal business hours" means those hours during which most similar businesses in the community are open to serve subscribers. In all cases, "normal business hours," at a minimum, means those hours when the City Hall is open to serve citizens.

13. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include (but are not limited to) natural disasters, strikes, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include (but are not limited to) special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system.

14. "Outlet" means the point of connection of the cable or wire to a television.

15. "Person" means an individual, partnership, association, joint stock company, trust corporation or governmental entity.

16. "Private property" means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

17. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

18. "Public access channel" means channel capacity designated for non-commercial public access use.

19. "Public property" means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

20. "Public way" means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle

or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. "Public way" also means any easement now or hereafter held by the City within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purpose of installing and operating the Grantee's cable system over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

21. "Service area" means the present municipal boundaries of the City.

22. "Service interruption" means the loss of video or audio on one or more channels.

23. "Service tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

113.02 TERM OF FRANCHISE. Mediacom LLC, its successors and assignees are hereby granted a renewal of their nonexclusive right, franchise and authority for a period of ten (10) years[†] to erect, maintain, and operate a cable system in the City, and to sell and supply individuals, firms and corporations within the corporate limits of the City, cable service and other services in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service areas and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system, subject to the conditions and restrictions provided and subject to the Cable Franchise Regulatory Ordinance, passed and adopted on February 7, 2005, and all applicable law of the State of Iowa and United States of America.

[†] **EDITOR'S NOTE:** Ordinance No. 474-05 adopting a cable television franchise for the City, was passed and adopted on February 7, 2005.

113.03 COMPLIANCE TO CABLE FRANCHISE REGULATORY ORDINANCE. The Grantee shall comply with all of the conditions and provisions of the Cable Franchise Regulatory Ordinance passed and adopted on February 7, 2005 (Chapter 112 of this Code of Ordinances), unless an exemption or modification is so specified in this chapter. In the event of a conflict or ambiguity between this chapter and such regulatory ordinance, the terms of this chapter shall control. No future transferees or assigns of the franchise, other than entities controlled by Mediacom Communications Corporation including MCC Iowa LLC shall be exempt from the following sections of the Cable Franchise Regulatory Ordinance: 112.07 [Application for Franchise]; 112.34(4) [Access and Equipment and Facilities Fee]; and 112.58 [Security Fund].

113.04 FRANCHISE FEE.

1. Franchise Fee Payment. In consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a cable system within the City, the Grantee shall pay to the City an annual amount equal to three percent (3%) of the Grantee's gross revenues as defined in Section 113.01 of this chapter.

2. Quarterly Payments. Payment due to the City under this chapter shall be made quarterly at the City Clerk's office not later than forty-five (45) days following March 31, June 30, September 30 and December 31 of each year. Any fee not paid when due shall bear interest at a rate of one and one-half percent (1½%) per month from the date due. Each payment shall be accompanied with a detailed report, on file in City Hall, showing the basis for the computation, and shall include (but not be limited to) a specific breakdown of the following items: basic tier service charges; expanded basic service charges; installation charges; reconnection fees; premium channel revenues; shopping service revenue; revenue from other sources such as contracted or subleased cable services; pay-per-view; miscellaneous revenue, and such other relevant facts, as may be required by the City, necessary to determine the accuracy of the franchise payment as specified in of this chapter. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the Grantee. All amounts paid shall be subject to audit and recomputation by the City. The Grantee shall permit the City, upon request with reasonable notice, to review at Grantee's local office its gross revenue records as may be necessary to monitor compliance with this section.

3. Franchise Fee Audit. The Grantee will fully cooperate with a franchise fee audit performed by a professional firm that is chosen by the City. The costs associated with the audit will be paid for by the City, except that the Grantee shall pay for the costs if the audit shows an underpayment of franchise fees in excess of five percent (5%) or more for a reporting period.

4. Franchise Fee Increases. The City may request an increase in franchise fees at any time during the term of the franchise, equal to the maximum percentage allowed by Federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the City shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fee.

5. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be five years from the date on which payment by a Grantee is due.

6. Annual Review. The Grantee agrees to permit the City, upon request with reasonable notice, to review at Grantee's local office its gross revenue records as may be necessary to monitor compliance with this section.

113.05 SYSTEM DESIGN.

1. The system will be designed so as to be two-way capable, and will be constructed in a manner that will meet or exceed FCC specifications.

2. The Grantee shall provide for the installation and operation of an emergency alert override system pursuant to FCC regulations on or before June 1, 2005.

3. The Grantee shall provide an "upstream capability" to allow live broadcast on or before June 1, 2005, on the education and government channel from the following locations: City Hall, St. Mary's Church, St. John's Church, United Methodist Church, Guttenberg Community School, Police Department, Civic and Conference Center/Welcome, and any Community Colleges if located within 300 feet of Grantee's cable plant.

4. The Grantee will provide one channel to be used for educational and governmental access. The Grantee will continue to originate these

channels from the sites listed in subsection 3 of this section and purchase all of the necessary equipment and modulators to activate the return.

5. The City may request an additional PEG channel and the Grantee shall provide one additional channel to be used for educational, governmental and/or public access if the specially designated access channel is in use during seventy percent (70%) of the weekdays (Monday-Friday) for seventy percent (70%) of the time between the hours of 7:00 a.m. and 11:00 p.m. for six consecutive weeks showing locally produced original programming or programs of particular interest, and there is a demand for use of an additional channel for the same purposes as the channel meeting the above criteria. The Grantee shall have six (6) months from the request of the City to make such channel available. Notwithstanding the foregoing, the Grantee shall not be required to provide more than two (2) PEG access channels during the term of the franchise. For the purposes of this section, programming shown after 5:00 p.m. may be repeated the following day and be defined as locally produced original programming necessary to calculate the 70% threshold. If the access channels are not programmed a minimum of twenty percent (20%) of the weekdays between the hours of 9:00 a.m. to 5:00 p.m. for twenty-six (26) consecutive weeks showing local produced original programming (not character generation), the City may utilize the channel for commercial programming with no less than six (6) months notice to the City.

6. The Grantee shall upon request, provide without charge, one outlet of basic service and expanded basic service to the following public buildings in Guttenberg:

- City Hall
- Fire Station
- Law Enforcement Center
- Public Library
- All Public School Buildings
- Civic and Commercial Center

113.06 SYSTEM IMPROVEMENTS. Grantee shall provide written notice to the City verifying completion of any system improvements. The cable system shall be constructed in accordance with performance standards which meet or exceed FCC regulations. The cable system shall include or provide:

1. Pay-per-view capabilities.

2. Conversion. Subscribers shall not be charged by Grantee for conversion from the existing cable system to the new cable system. In the event that special additional or customized equipment is requested by

any subscriber or is required to provide service to any subscriber, Grantee may charge the subscriber for such equipment.

3. Notification. Grantee will notify subscribers and the public in general of system improvements, using at least two of the following: bill stuffers, direct mail, news releases, radio announcements, CSR training, and community bulletin board announcements.

4. Drop Maintenance. Grantee shall maintain and replace subscriber drops during its normal operation of the cable system that do not meet the standards of the *National Electric Safety Code*. The cable system shall be designed to allow each subscriber drop to provide service to three (3) outlets.

5. Penalty. The City may assess against the Grantee a penalty of one hundred dollars ($100.00) per day for failure to meet the construction requirements of this chapter.

113.07 CAPITAL EQUIPMENT GRANT. The Grantee shall provide the City with a capital grant in the amount of $4,000 for the purchase of capital equipment and facilities in support of educational and governmental access programming no later one hundred twenty (120) days following the final adoption of the ordinance codified in this chapter. The Grantee shall provide the City with a second grant of $4,000 for government and educational access capital needs no later than January 31, 2006. By accepting the capital grants from the Grantee, the City shall be required to support the operational costs of educational and government access with funding equal to sixty percent (60%) of the franchise fees received from the Grantee. The City shall provide documentation that this funding requirement has been met upon written request of the Grantee.

113.08 ACTIVATED CHANNELS. The Grantee shall provide a minimum of sixty-four (64) activated channels on the cable system on the effective date of the franchise.

113.09 SERVICE AREA. Grantee shall offer cable television residential service to all areas of the City which are in the corporate limits of the City on the effective date of the franchise. The Grantee shall, at its expense, promptly extend its system to have service available to all residents of:

1. Newly annexed areas to the City not then served by a cable system where the average density is at least six (6) dwelling units per quarter lineal mile or of proposed trunk and feeder cable route.

2. New housing areas developed within the City limits, providing the new areas developed meet the requirements of subsection 1 of this section.

3. Any new single family dwelling unit, multiple dwelling unit or other residential unit or commercial establishment within two hundred (200) feet of existing distribution system in the City shall be extended cable simultaneously with electric power and telephone utilities whenever reasonably possible.

113.10 FRANCHISE NONEXCLUSIVE. Consistent with the requirements of this chapter, the franchise shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The City specifically reserves the right to grant at any time during the term of the franchise or renewal thereof, if any, such additional franchises for a cable system as it deems appropriate.

113.11 POLICE POWERS. In accepting the franchise, Grantee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general ordinances necessary for the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such powers.

113.12 TRANSFER OF FRANCHISE. The Grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity, controlling, controlled by, or under common control with the Grantee, without the prior consent of the City. Such consent shall not be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Grantee in the franchise in order to secure indebtedness. Within 30 days of receiving the request for transfer, the City shall in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.

113.13 EMERGENCY ALERT SYSTEM. The Grantee shall, in the case of any emergency or disaster, make its entire cable system available without charge to the City or to any other governmental or civil defense agency that the City shall designate. The cable system shall be engineered to provide an audio and video alert system to allow authorized officials to automatically override the audio and video signal on all channels and transmit and report emergency information pursuant to FCC regulations. The City shall hold the Grantee, its

agents, employees, officers, and assigns hereunder, harmless from any claims arising out of the emergency use of its facilities by the City, including, but not limited to, reasonable attorney's fees and costs, provided that the emergency alert system is in good repair and is operational as required by FCC regulations and the franchise agreement. The Grantee will install and maintain a back up generator at its headend that will provide the needed power to generate the headend in the event of a power outage.

113.14 ENFORCEMENT AND TERMINATION OF FRANCHISE.

1. Notice of Violation. In the event that the City believes that the Grantee has not complied with the terms of the franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 1: (a) to respond to the City, contesting the assertion of noncompliance; or (b) to cure such default; or (c) in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 1 pursuant to the procedures set forth in subsection 2, or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to subsection 2 above, the City shall schedule a public hearing to investigate the default. The City shall notify the Grantee in writing of the time and place of such meeting no less than five business days in advance and provide the Grantee with an opportunity to be heard.

4. Enforcement. Subject to applicable Federal and State law, in the event the City, after such public hearing, determines that the Grantee is in default of any provision of the franchise, the City may:

A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;

B. Commence an action at law for monetary damages or seek other equitable relief; or

C. In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked in accordance with the procedures outlined in this section.

The City shall give written notice to the Grantee of its intent to revoke the franchise on the basis of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material

provision of the franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response satisfactory from the Grantee, it may then seek termination of the franchise at a public meeting. The City shall cause to be served upon the Grantee, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination. At the designated meeting, the City shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the City *de novo*, and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

5. Termination of Franchise.

A. Grounds for Revocation. The City reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

- If the Grantee should default in the performance of any of its material obligations under the Cable Franchise Regulatory Ordinance or this franchise and fails to cure the default within sixty (60) days after receipt of written notice of the default from the City, or such longer time as specified by the City.
- If a petition is filed by or against the Grantee under the Bankruptcy Act or any other insolvency or creditors' rights law, State or Federal, and the Grantee shall fail to have it dismissed.
- If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets.
- If the Grantee makes an assignment for the benefit of creditors.
- If the Grantee violates any order or ruling of any State or Federal regulatory body having jurisdiction over the Grantee, unless the Grantee or any party similarly affected is lawfully contesting the legality or applicability of such order or ruling

and has received a stay from a Court of appropriate jurisdiction.

- If the Grantee evades any of the provisions of the Cable Franchise Regulatory Ordinance or this chapter.
- If the Grantee practices any intentional fraud or deceit upon the City or cable subscribers.
- If the Grantee materially misrepresents facts in the application for a franchise.
- If the Grantee ceases to provide services over the cable system for seven (7) consecutive days for any reason within the control of the Grantee.

B. Restoration of Property. In removing its plant, structures and equipment, the Grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. The City shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance indemnity provided in the Regulatory Ordinance and the performance bond in Section 113.15 shall continue in full force and effect during the period of the removal.

C. Reimbursement of Costs. In the event of a failure by the Grantee to complete any work as required above or any work required by law or ordinance within the time established and to the reasonable satisfaction of the City, after due notice and opportunity to curve, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within thirty (30) days after receipt of an itemized list of such costs or the City may recover such costs.

113.15 FAITHFUL PERFORMANCE BOND. Upon acceptance of a franchise, the Grantee shall submit and maintain throughout the term of the franchise, a faithful performance bond in the amount of one hundred thousand dollars ($100,000.00). The bond shall insure compliance with all applicable laws, regulations, ordinances and provisions of this permit, shall provide for recoverable loss or damages, compensation, indemnification, reasonable attorney fees, cost of removal or abandonment of Grantee's property, and shall cover penalties of one hundred dollars ($100.00) per day for failure to meet the construction requirements of any franchise agreement.

113.16 REVIEW SESSIONS.

1. Purpose of Review Sessions. In recognition of the fact that a great many technical, financial, marketing and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the City to provide for a maximum feasible degree of flexibility in a franchise throughout its term to achieve an advanced and modem cable system for the City. The principal means for accomplishing this flexibility will be the scheduled review sessions provided for in this chapter. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems that develop. Furthermore, such review sessions shall be two-way processes. For example, if either party has perceived that some major problem has developed, the session shall be devoted primarily to working out solutions acceptable to both parties.

2. Topics to be Covered. The City and the Grantee shall hold scheduled review sessions on the third, sixth, and ninth anniversary dates of the effective date of the franchise agreement. All such review sessions shall be open to the public and notice thereof shall be published once, not less than four (4) days or more than twenty (20) days before each review session, as provided by law. The published notice shall specify the topics to be discussed. The review sessions may be canceled by mutual agreement of the City and Grantee. The following topics may be discussed at every scheduled review session:

- Recent and developing judicial and Federal communications rulings service rate structures
- Free and discounted services
- Application of new technology or new developments cable system performance
- Cable system extension policy
- Services provided
- Programming offered
- Customer complaints review
- Community development and education interconnection
- New services
- Subscriber privacy abuse issues new developments
- Franchise fees

Other topics, in addition to those listed, may be added by either party. Members of the general public may also request additional topics.

113.17 EQUAL PROTECTION. In the event the City enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

113.18 INSURANCE COVERAGE. The Grantee shall provide a certificate of insurance designating the City as an "additional insured." The Grantee shall maintain and provide to the City proof of public liability insurance for not less than the following amounts:

- $2,000,000 – any one occurrence, bodily injury or property damage
- $2,000,000 – products/completed operations annual aggregate liability
- $2,000,000 – general aggregate

113.19 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by this chapter to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.

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CHAPTER 114

FRANCHISE FEE ON ENERGY PROVIDERS

114.01 Establishment of Franchise Fee
114.02 Franchise Fee In Lieu Of
114.03 Reporting and Payments
114.04 Franchise Fee Listing
114.05 Corporate Limits
114.06 Annexation
114.07 Audit

120.01 ESTABLISHEMENT OF FRANCHISE FEE. The City of Guttenberg, Iowa, (hereinafter referred to as the "Municipality") hereby establishes a franchise fee on every natural gas or electric company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas or electric plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas or electric (hereinafter referred to, collectively, as "Energy Providers," each, individually, an "Energy Provider"). Energy Providers shall collect from their customers located within the corporate limits of the Municipality as depicted on the Map (as defined below) and pay to the City an amount equal to one percent (1%) of gross receipts Energy Providers derive from the sale, distribution or transportation of natural gas or electric delivered within the present limits of the Municipality. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas or electric, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

120.02 FRANCHISE FEE IN LIEU OF. The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other fees, charges, taxes or assessments which the Municipality may impose for the privilege of doing business within the Municipality, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the Municipality imposes any such fee, charge, tax or assessment, the payment to be made by Energy Providers in accordance with this ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the Municipality shall not be deemed to affect Energy Providers' obligations under this ordinance.

114.03 REPORTING AND PAYMENTS. Energy Providers shall report and pay any amount payable under this ordinance on a monthly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated

for the portions of the periods at the beginning and end of any franchise granted by the City of Guttenberg, Iowa, to an Energy Provider.

114.04 FRANCHISE FEE LISTING. Energy Providers shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, Energy Providers will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of Municipality, Energy Providers may reduce the franchise fee payable for natural gas or electric delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

114.05 CORPORATE LIMITS. Within ten (10) days of the date of this ordinance, the Municipality shall provide the Energy Providers with a map of its corporate limits (the "Map"). The Map shall be of sufficient detail to assist Energy Providers in determining whether their customers reside within the Municipality's corporate limits. The Map along with Energy Provider's Geographic Information System ("GIS") mapping information shall serve as the sole basis for determining Energy Provider's obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the Municipality's corporate limits are changed by annexation or otherwise, it shall be the Municipality's sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Energy Providers. An Energy Provider's obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Energy Provider's receipt from the Municipality of an updated Map including such annexed area, or (b) such time after such Energy Provider's receipt from the Municipality of an updated Map including such annexed area as is reasonably necessary for such Energy Provider to identify the customers in the annexed area obligated to pay the franchise fee.

114.06 ANNEXATION. The Municipality shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of the City as set forth in Section 4 above.

114.07 AUDIT. The Municipality shall have access to and the right to examine, during normal business hours, Energy Provider's books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the Municipality shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake

shall be corrected promptly upon discovery such that any under-payment by an Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by an Energy Provider shall be deducted from the next payment of such franchise fee due by such Energy Provider to the Municipality; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

(Ch. 114 – Ord. 703-23 – Mar. 23 Supp.)

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CHAPTER 115

ELECTRIC FRANCHISE (TRANSMISSION SYSTEM)

115.01 Grant of Franchise
115.02 Placement of Facilities; Indemnification
115.03 Excavations
115.04 Relocation for City Project
115.05 Relocation for Private Project
115.06 Vacation of Public Right-of-Way
115.07 Vegetation Management
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115.13 Severability
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115.15 Effective and Binding
115.16 Complete Agreement
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115.19 Entire Agreement

115.01 GRANT OF FRANCHISE. There is hereby granted to SOO Green HVDC Link ProjectCO, LLC, hereinafter referred to as "SOO GREEN" or the "Company," its successors and assigns, the right and franchise to construct, reconstruct, repair, replace, maintain and operate in the City of Guttenberg, Iowa ("City"), the necessary conduits, and other appliances or equipment for the transmission of electric current and communication facilities (collectively, the "Facilities") and the right to construct, reconstruct, relocate, repair, replace, maintain and operate the Facilities under the streets, avenues, alleys and public places and in a certain railroad right of way in the City of Guttenberg, Clayton County, Iowa. This franchise shall be effective for a twenty-five (25) year period from and after the effective date defined in Section 115.15 herein ("Effective Date"). SOO Green is also granted the right of eminent domain as provided in Iowa Code Section 364.2(4) as reasonably necessary to carry out the purposes of this franchise. ("Franchise" or "Ordinance.")

115.02 PLACEMENT OF FACILITIES; INDEMNIFICATION. The Facilities shall be placed and maintained so as not to unnecessarily interfere with travel on the streets, alleys, and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City, and the Company shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the installation or maintenance of the Facilities.

115.03 EXCAVATIONS. In making any excavations in any street, alley, or public place, the Company shall protect the site while work is in progress, shall not unnecessarily obstruct the use of streets, and shall back-fill all openings in such manner as to prevent settling or depressions in surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical.

115.04 RELOCATION FOR CITY PROJECT. The Company shall, at its cost and expense, locate and relocate its Facilities in, on, over or under any public street or alley or other public place in the City in such a 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 ("City Project"). The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at company expense at the direction of the City in the previous three (3) years. The City and the Company desire to minimize, to the fullest extent possible, the risk that any of the Facilities would require relocation for the purposes of a future City Project. The City has reviewed the proposed route for the Facilities, shown on Attachment 1, and used its best available information to identify any areas where a City Project may occur during the term of this franchise and could potentially result in a Facilities relocation. The City and the Company will work together to revise the location of the Facilities prior to construction to reduce the risk of any conflict. For future City Projects, the following will apply:

1. In developing a City Project, the City shall consider reasonable alternatives so as not to arbitrarily cause the Company unreasonable additional expense.

2. If there is a potential conflict between a City Project and the Facilities, the City and the Company will work together to identify alternatives that would avoid relocation of Facilities. When such alternative is available, SOO Green will have the option to pay the incremental cost, if any, associated with the alternative to avoid relocation and the City will implement that alternative if SOO Green so elects.

3. If a relocation of Facilities cannot be avoided, the City will provide a reasonable alternative location for the Company's facilities within City right-of-way. The Company shall be solely responsible for any additional cost to the City as determined by the City Engineer in the City Engineer's sole discretion for providing such alternative location. If the alternative location the City can provide within the City right-of-way is not acceptable to the Company, the Company is granted the power of eminent domain to acquire the land rights necessary to relocate the Facilities to a suitable location. The Company will not be required to deactivate and relocate existing Facilities until the relocated Facilities are operational.

115.05 RELOCATION FOR PRIVATE PROJECT. If the City orders or requests the Company to relocate its Facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the City shall require advance payment to the Company for all construction and transactions costs and the provision of an alternative location for the Facilities of such relocation from such developer or other non-public entity as a precondition to relocating the Facilities. If such pre-payment is made, the Company will not be required to deactivate and relocate existing Facilities until the relocated Facilities are operational.

115.06 VACATION OF PUBLIC RIGHT-OF-WAY. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing Facilities within the vacated right-of-way and the City shall grant the Company a utility easement in the vacated public right-of-way until the City orders or requests the Company to relocate its Facilities. If such relocation is for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity Section 115.05 of this franchise shall control. If the relocation is for a public project, Section 115.04 shall control.

115.07 VEGETATION MANAGEMENT. The Company is authorized and empowered to prune or remove at Company expense any trees, shrubs, or vegetation extending over or into any street, alley, right-of-way, or public grounds to construct and operate the transmission line and to maintain electric reliability, safety, or restore utility service. Any such pruning or removal shall be done in accordance with accepted safety and utility industry standards and federal and State laws, rules, and regulations.

115.08 PUBLIC PLACES. "Public places" means any property owned by the City.

115.09 NON-EXCLUSIVITY. The franchise granted by this Ordinance shall not be exclusive.

115.10 REPEAL OF CONFLICTING ORDINANCES. All ordinances, or parts of ordinances, insofar as they are in direct conflict herewith, are herby repealed.

115.11 ASSIGNMENTS. No sale, assignment or lease of this franchise shall be effective until it is approved by the City Council and after the Company has filed in the office of the City Clerk written notice of the proposed sale, transfer, disposition or assignment, such notice to clearly summarize the proposed

procedure and the terms and conditions thereof. Such approval by the City Council shall not be unreasonably withheld. The proposed vendor, assignee or lessee shall similarly file an instrument, duly executed, reciting such proposal, accepting the terms of this franchise and agreeing to perform all the conditions thereof. This provision shall not apply, however, to collateral assignments in connection with a project financing of the project.

115.12 CONFIDENTIAL INFORMATION. Upon reasonable request, the Company shall provide the City, on a project-specific basis, with information indicating the horizontal location relative to boundaries of the right-of-way of all equipment which the Company owns or over which it has control located within City right-of-way. The Company and the City recognize the information provided may, under current Iowa law, constitute public records, but that nonetheless, some information provided may be confidential under State or federal law, or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in City right-of-way that the Company certifies may constitute a trade secret or which may otherwise be protected from public disclosure by State or federal law. The City further agrees that no documents, maps, or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under applicable State or federal law. Any documents, maps, or other information submitted to the City which the Company regards as exempt or protected from public disclosure shall be clearly marked as confidential by the Company. Upon request of the City, the Company shall provide citation to legal authority supporting its designation. The City shall inform the Company of any request for disclosure of such confidential documents, and upon notification from the City any request or legal action regarding such confidential information.

115.13 SEVERABILITY. If any of the provisions of this franchise are for any reason declared to be illegal or void, the lawful provisions of this franchise, which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the franchise contained no illegal or void provisions.

1115.14 NOTICES. Any written notice required by this franchise shall be sent by first class mail to the persons and addresses below.

For SOO Green
Raj Rajan
Vice President - Project Development
SOO Green HVDC Link ProjectCo, LLC
1600 Utica Ave S, 9th Floor

St. Louis Park, Minnesota 55416

For City of Guttenberg
City Manager
502 S First St.
PO Box 580
Guttenberg, Iowa 52052

115.15 EFFECTIVE AND BINDING. The City shall provide the Company with an original signed and sealed copy of this Ordinance within ten (10) days of its final passage. The Effective Date of this Ordinance shall be the earlier of (a) the date the Company provides written notice to the City Manager that any mobilization, staging, or construction of the Facilities will commence within the City limits or (b) December 31, 2026, provided SOO Green has paid all costs associated with review and adoption of the franchise. The Company shall file its written acceptance of this Ordinance with the City Council by email within ninety (90) days after its approval by the City Council.

115.16 COMPLETE AGREEMENT. This franchise ordinance sets forth and constitutes the entire agreement between the Company and the City of Guttenberg with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company.

115.17 PUBLICATION EXPENSES. The expense of the publication of this Ordinance shall be paid by the Company.

115.18 RENEWAL. The City and the Company will meet at least 12 months prior to the expiration of this franchise to discuss renewal of the franchise.

115.19 ENTIRE AGREEMENT. This Ordinance sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified, or otherwise amended without the approval and acceptance of the Company. In no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or that delay utility operations. No easement from the City shall be required for the placement of Facilities under the streets, avenues, alleys and public places and in a certain railroad right of way. The City agrees that it will not impose a fee for the placement of Facilities under streets, avenues, alleys and public places and in a certain railroad right of way.

(Chapter 115 – Ord. 725-24 – Jan. 25 Supp.)

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122, and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a 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.

(Ord. 693-22 – Sep. 22 Supp.)

(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])

(Ord. 707-23 – Oct. 23 Supp.)

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[2b])

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, 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[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2j])

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))

(Subsection 8 – Ord. 739-26 – Jan. 26 Supp.)

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee 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[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[2k])

(Section 120.07 – Ord. 707-23 – Oct. 23 Supp.)

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.

(Section 120.06 – Ord. 693-22 – Sep. 22 Supp.)

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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, cigarettes 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. "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.

8. "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 may 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(3)(b) and 453A.47A(7))

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(4) and 453A.47A(8))

121.09 PERSONS UNDER LEGAL AGE. No 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 department within 30 days of the revocation or suspension.

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

(Chapter 121 – Ord. 736-26 – Jan. 26 Supp.)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
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122.18 License Exemptions
122.19 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set

forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of two dollars ($2.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. Seventy-Five Dollars ($75.00) per year shall be paid to the Clerk prior to the issuance of any license.

(Ord. 602-16 – Aug. 16 Supp.)

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m., unless the City Clerk approves different hours.

(Ord. 611-17 – Jun. 17 Supp.)

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

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

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars ($5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the Clayton Ridge School District conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

7. 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[13])

(Subsection 7 – Ord. 674-21 – Sep. 21 Supp.)

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee
123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred twenty (120) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying 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 – $50,000 per person; $100,000 per accident.
2. Property Damage – $50,000 per accident.

123.06 PERMIT FEE. A permit fee of Twenty-Five Dollars ($25.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved. ***(Ord. 601-16– Aug. 16 Supp.)***

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 124

SPECIAL EVENTS

124.01 Vendor Permit
124.02 Vendor Permit Fee
124.03 Outdoor Entertainment Permit
124.04 Nuisance
124.05 Exceptions

124.01 VENDOR PERMIT. No peddler, solicitor, transient merchant or other vendor of a temporary nature (hereinafter referred to as "vendor") shall provide or sell food or other goods or services to the public in the City during a special event unless the vendor has first obtained a permit from the City through the Chamber of Commerce, a formally recognized committee or the City Manager's office. An exception to this requirement is provided in Section 124.05 of this chapter. All peddlers, solicitors, vendors, and transient merchants must abide by the following rules:

1. All materials, merchandise, and/or literature to be distributed or sold at the event must be preapproved by the Chamber, event committee or City Manager by a predetermined deadline to ensure no materials are vulgar or inappropriate in nature to the event.

2. No event attendee or vendor shall cause any interference with the convenience or safety to any other event attendee or vendor.

3. No event attendee or vendor shall use any bullhorn or any other sound amplification device that would cause interference to the special event.

(Section 124.01 – Ord. 697-22 – Oct. 22 Supp.)

124.02 VENDOR PERMIT FEE. The fee for a vendor permit shall be set by action of the City Council (by resolution), Chamber of Commerce, or formally recognized committee. For the purposes of this section, a local vendor is any entity located within the boundaries of the Clayton Ridge School District. The vendor permit shall be granted on condition that the vendor locate his or her sales stand at a location to be determined by the Chamber, recognized committee or the City Manager's office. All vendors shall comply with all local, State and federal laws and regulations.

(Ord. 697-22 – Oct. 22 Supp.)

124.03 OUTDOOR ENTERTAINMENT PERMIT. No outdoor entertainment shall be held during any special event in the City without first obtaining a special event permit from the City, by application to a formally

recognized special event committee or the City Manager's office, subject to the following rules:

1. All outdoor entertainment shall cease at 12:00 midnight unless other times are approved by resolution of the Council.

2. Decibel level of outdoor entertainment shall be reasonable for the circumstances and location and shall be subject to the control of the Police Chief.

3. Outdoor sales of alcoholic beverages shall be permitted only in full compliance with the *Code of Iowa* and appropriate licensure by the State.

(Section 124.03 – Ord. 697-22 – Oct. 22 Supp.)

124.04 NUISANCE. The sale of food or merchandise or the sale of beverages or the provision of entertainment outdoors with a permit or in violation of any of the provisions of this chapter is hereby declared to be a nuisance. Any member of the police department of the City is hereby empowered to cause any offending vendor's stand or outdoor entertainment or place where beverages are dispensed in violation of this chapter to be immediately dismantled and removed without notice.

124.05 EXCEPTIONS. It is not a violation of this chapter (and no vendor permit is required) for a person to sell or supply food or other merchandise during any special event, provided that such person was in possession of a current Iowa permit for the sale of food for consumption on the premises as of one month prior to the special event or provided that such vendor was in existence for one month prior to the special event and the vendor is selling or supplying food from a recognized and properly permitted place of business.

CHAPTER 125

REGISTRATION OF ELECTRICIANS

125.01 Registration Required
125.02 Exemptions
125.03 Definitions
125.04 Classes of Registration
125.05 Fees for Registration
125.06 Expiration and Renewal
125.07 Apprentices and Helpers
125.08 Homeowners
125.09 Revocation or Suspension
125.10 Transfer of Certificate

125.01 REGISTRATION REQUIRED. No person shall engage in the practice of doing electrical work in the City unless registered as an electrical contractor, journeyman electrician or maintenance electrician, except as provided in Sections 125.02, 125.06 and 125.07 of this chapter.

125.02 EXEMPTIONS. The provisions of this chapter do not apply to regular employees of a public utility who do electrical work for such public utility only, nor do they apply to the electrical work of a telephone or telegraph company, or to the persons performing electrical work for such a company where such electrical work is an integral part of the plant used by such telephone or telegraph company in rendering its duly authorized service to the public, or to any regular employee of any railroad who does electrical work only as a part of that employment.

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

1. "Electrical contractor" means any person who undertakes or offers to undertake to plan for, lay out, supervise and do electrical work for a fixed sum, price, fee, percentage or other compensation.

2. "Electrical equipment" means all electrical materials, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

3. "Electrical work" means all installation, alterations, repairs, removals, renewals, replacements, connections, disconnections and maintenance of all electrical equipment.

4. "Journeyman electrician" means a person having the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work, but in the employ of an electrical contractor or holder of a maintenance electrician registration.

5. "Maintenance electrician" means a person who has the necessary training, experience and technical knowledge to undertake the work of installing, servicing, maintaining, altering and repairing electrical

devices, appliances and equipment within the stipulated confines of property owned or controlled by the firm, business or company by which he or she is employed.

6. "Registered" means registered under this chapter except if otherwise specified.

125.04 CLASSES OF REGISTRATION. Three classes of registration are hereby established and certificates thereof shall be issued only upon the approval of the City.

Class I – Electrical contractor certificate of registration

Class II – Electrical maintenance certificate of compentency

Class III – Journeyman electrician certificate of compentency

125.05 FEES FOR REGISTRATION. Before a certificate of registration is granted to any applicant and before an expiring registration is renewed, the applicant shall pay to the City a fee in the amount herein specified for the class of registration to be granted or renewed, as follows:

Class I – $25.00; annual renewal fee – $5.00;

Class II – $20.00; annual renewal fee – $2.00;

Class III – $2.00; annual renewal fee – $1.00.

125.06 EXPIRATION AND RENEWAL. Each registration shall expire on December 31 following the date of its issue and shall be renewed by the City upon application of the holder of the registration and payment of the required fees any time before or on January 1 of each year. Renewal of registration shall not be granted to a holder of a registration while indebted to the City under the terms of this chapter. If there is a lapse of over sixty days from the expiration of a registration renewal, the renewal fee shall be the same as on a original application.

125.07 APPRENTICES AND HELPERS. Apprentices and helpers employed to assist a registered electrician for general labor and not electrical work need not be registered; provided, however, such apprentices and helpers shall perform their work under the direct supervision of a registered electrician.

125.08 HOMEOWNERS. The owner of a single family dwelling (or mobile home), including the usual accessory building and quarters used exclusively for living purposes, may do such electrical work without registration if said owner demonstrates a capability to do the work, provided that the dwelling (or mobile home) will be occupied by the owner and said owner shall purchase all

materials and perform all labor in connection with the electrical work. All work done in accordance with this exception must meet all other requirements of law.

125.09 REVOCATION OR SUSPENSION. When any holder of a registration issued under the provisions of this chapter acts in violation of any part of this chapter, the Council may revoke or suspend such registration. The holder, on receipt by certified mail of written notice of revocation or suspension, shall surrender such registration. A person whose registration has been revoked shall not be permitted to apply for another registration within one year from the date of revocation.

125.10 TRANSFER OF CERTIFICATE. It is unlawful for any person holding a registration certificate to transfer it or allow the use of it, directly or indirectly, by another person.

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CHAPTER 126

HOTEL/MOTEL TAX

126.01 Tax Imposed
126.02 Definitions
126.03 Effective Date of Tax
126.04 Collection
126.05 Restrictions on Use of Revenues

126.01 TAX IMPOSED. There is imposed a seven percent (7%) hotel and motel tax upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the sales price from the renting of sleeping rooms in dormitories and memorial unions at all universities and colleges located in the State. ***(Ord. 532-09 –Jan. 10 Supp.)***

(Code of Iowa, Sec. 423A.1)

126.02 DEFINITIONS. "Renting" and "rent," as used in this chapter, include any kind of direct or indirect charge for the use of such room, apartment, or sleeping quarter in a hotel, motel, inn, public lodging house, or rooming house, or in any place where sleeping accommodations are furnished to a transient guest.

1. The tax imposed in this chapter does not apply to the gross receipts from the renting of a room, apartment, or sleeping quarter while rented by the same person for a period of more than thirty-one (31) consecutive days, except as provided at Paragraph 2.

2. The tax imposed in this chapter does apply to the gross receipts from the renting of a room, apartment, or sleeping quarter while rented by the same person beginning after ninety consecutive days of rental.

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

(Ord. 664-20 – Nov. 20 Supp.)

126.03 EFFECTIVE DATE OF TAX. The hotel and motel tax as set forth in this chapter shall be imposed on all sales prices received after January 1, 2010. ***(Ord. 532-09 –Jan. 10 Supp.)***

126.04 COLLECTION. 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.

(Code of Iowa, Sec. 423A.1)

126.05 RESTRICTIONS ON USE OF REVENUES. The revenue derived from the tax imposed by this chapter shall be accounted for as follows:

1. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City.

2. At least fifty percent (50%) of the revenue derived from the hotel and motel tax shall be spent for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating or maintaining recreational, convention, cultural or entertainment facilities, including, but not limited to, memorial buildings, halls and monuments, civic centers, convention buildings, auditoriums, coliseums and parking areas or facilities located at those recreational, convention, cultural or entertainment facilities, or the payment of principal and interest on bonds or other evidence of indebtedness issued by the City for those recreational, convention, cultural or entertainment facilities, or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.

3. The remaining revenues may be spent by the City for any lawful purpose for which revenues derived from ad valorem taxes may be expended.

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CHAPTER 127

SEXUALLY ORIENTED BUSINESSES

127.01 Purpose and Intent
127.02 Definitions
127.03 Classification and Standards of Conduct and Operation
127.04 Permit Required
127.05 Issuance of Permit
127.06 Fees
127.07 Inspection
127.08 Expiration of Permit
127.09 Suspension
127.10 Revocation
127.11 Transfer of Permit
127.12 Location Restrictions
127.13 Nonconforming Uses
127.14 Additional Regulations for Adult Motels
127.15 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos
127.16 Exterior Portions of Sexually Oriented Businesses
127.17 Signage
127.18 Persons Younger Than Eighteen Prohibited
127.19 Massages or Baths Administered by Person of Opposite Sex
127.20 Consumption of Alcoholic Beverages Prohibited
127.21 Notices
127.22 Injunction
127.23 Exemptions

127.01 PURPOSE AND INTENT. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

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

1. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

2. "Adult bookstore" or "adult video store" means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. A principal business purpose need not be a primary use of an establishment, so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

3. "Adult cabaret" means a commercial establishment that regularly features:

A. Persons who appear in a state of semi-nudity; or

B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

C. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

4. "Adult motel" means a hotel, motel or similar commercial establishment that:

A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-

way that advertises the availability of these adult types of photographic reproductions; or

B. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.

5. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

6. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

7. "Director" means the City Manager and such employees of the City as the City Manager may designate to perform the duties of the Director under this chapter.

8. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

9. "Escort agency" means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

10. "Establishment" means and includes any of the following:

A. The opening or commencement of any sexually oriented business as a new business;

B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

C. The additions of any sexually oriented business to any other existing sexually oriented business; or

D. The relocation of any sexually oriented business.

11. "Licensed day-care center" means a facility licensed by the State, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12)

children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, of less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

12. "Permittee" means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

13. "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

14. "Nudity" or "state of nudity" means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

15. "Semi-nude" means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

16. "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.

17. "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

18. "Specified anatomical areas" means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

19. "Specified sexual activities" means and includes any of the following:

A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

C. Masturbation, actual or simulated; or

D. Excretory functions as part of or in connection with any of the activities set forth in subsections A through C above.

20. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) from the original premises.

21. "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

A. The sale, lease or sublease of the business;

B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange or similar means; or

C. The establishment of a trust, gift or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

127.03 CLASSIFICATION AND STANDARDS OF CONDUCT AND OPERATION.

1. Sexually oriented businesses are classified as follows:

A. Adult arcades;

B. Adult bookstores or adult video stores;

C. Adult cabarets;

D. Adult motels;

E. Adult motion picture theaters;

F. Adult theaters;

G. Escort agencies;

H. Nude model studios; and

I. Sexual encounter centers.

2. The following standards of conduct must be adhered to by entertainers and employees of any sexually oriented business while on the premises:

A. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, except when such entertainer or employee is separated from any and all customers by a window or other partition which is maintained free of holes or other structural openings which would permit physical contact between such entertainer and employee and any customer within the viewing area and customers are not permitted within four (4) feet of the window or other partition. However, a single opening in such window or partition, allowing for payment for entertainment, by a customer to the entertainer, shall be permitted and at this point customers are permitted within two (2) feet of the window or other partition to allow customers to reach the opening.

B. No employee or entertainer shall perform:

(1) Any specified sexual activities; or

(2) The displaying of any specified anatomical area, except as provided for in paragraph A of this subsection.

C. No employee or entertainer who is either not separated from any and all customers as provided in paragraph A of this subsection, or in an area of the premises not open to customers shall be unclothed or in less than opaque and complete attire, costume or clothing as described in paragraph A of this subsection.

D. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

E. No entertainer shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in

such attire, costume or clothing to expose to view any specified anatomical area or while performing any entertainment, either while clothed or unclothed.

F. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this chapter.

G. No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer, as described in paragraph A of this subsection.

3. At any sexually oriented business, the following are required:

A. A sign, on which upper-case letters are at least two (2) inches high and lower-case letters are at least one (1) inch high, shall be conspicuously displayed in the common area at the principal entrance and shall read as follows:

THIS ADULT ENTERTAINMENT BUSINESS
IS REGULATED BY THE CITY OF GUTTENBERG, IOWA.
ENTERTAINERS ARE:

1. *Not permitted to engage in any type of sexual conduct on the premises or in prostitution;*
2. *Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals, except when separated from customers by the window or partition between the entertainer and customers.*
3. *Not permitted to receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer.*

B. Neither entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.

C. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

127.04 PERMIT REQUIRED.

1. It is unlawful for a person to operate a sexually oriented business without a valid permit issued by the Director.

2. An application for a permit must be made on a form provided by the City. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

3. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the Health Department, Fire Department, Building Official and Zoning Official.

4. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.

5. The fact that a person possesses other types of State or City permits and/or licenses does not exempt said person from the requirement of obtaining a sexually oriented business permit.

6. Applications for a permit, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted by hand delivery to the office of the Director during regular working hours. Application forms shall be supplied by the Director. The intended operator shall be required to give the following information on the application form:

A. The name, street address (and mailing address if different) and Iowa driver's license number of the intended operator;

B. The name and street address (and mailing address if different) of the owner;

C. The name under which the establishment is to be operated and a general description of the services to be provided;

D. The telephone number of the establishment;

E. The address and legal description of the tract of land on which the establishment is to be located;

F. If the establishment is in operation, the date on which the owner acquiring the establishment began operations as a sexually oriented business at the location for which the permit is sought; and

G. If the establishment is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten (10) days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.

H. Statement that the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Code of Iowa, Federal law, or the statutes of any other state, or controlled substance or illegal drugs or narcotics offenses, as defined in the Code of Iowa, Federal law or the statutes of any other state, or has not been convicted of a municipal ordinance violation or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution or the possession or sale of controlled substances or illegal drugs or narcotics.

7. The application shall be accompanied by the following:

A. Payment of the application fee in full.

B. If the establishment is an Iowa corporation, a certified copy of the articles of incorporation, together with all amendments thereto.

C. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in the State, together with all amendments thereto.

D. If the establishment is a partnership formed under the laws of the State, a certified copy of the certificate of partnership, together with all amendments thereto.

E. If the establishment is a foreign partnership, a certified copy of the certificate of partnership and the qualification documents, together with all amendments thereto.

F. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed.

G. If the persons identified as the fee owners of the tract of land in item F are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.

H. Any of items B through G above shall not be required for a renewal application if the applicant states that the documents previously furnished the Director with the original application or previous renewals thereof remain correct and current.

8. The application shall contain a statement under oath that:

A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and

B. The applicant has read the provisions of this chapter.

9. A separate application and permit shall be required for each sexually oriented business.

127.05 ISSUANCE OF PERMIT.

1. The Director shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application unless the Director finds one or more of the following to be true:

A. An applicant is under eighteen (18) years of age.

B. An applicant or an applicant’s spouse is overdue in the payment to the City of taxes, fines or penalties assessed against said applicant or spouse or imposed in relation to a sexually oriented business.

C. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.

D. An applicant is residing with a person who has been denied a permit by the City to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

E. The premises to be used for the sexually oriented business has not been approved by the Health Department, Fire Department, Building Official and Zoning Official as being in compliance with applicable laws and ordinances.

F. The permit fee required by this chapter has not been paid.

G. An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

2. The permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business that it may be easily read at any time.

3. The Health Department, Fire Department, Building Official and Zoning Official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the Director. The certification shall be promptly presented to the Director.

4. In the event that the Director determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days after the receipt of the application by the Director, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this chapter.

5. An applicant may appeal the decision of the Director regarding a denial to the Council by filing a written notice of appeal with the Clerk within fifteen (15) days after the applicant is given notice of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may submit a memorandum in response to the memorandum filed by the applicant on

appeal to the Council. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the Council shall vote either to uphold or overrule the Director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the Clerk receives the notice of appeal. However, all parties shall be required to comply with the Director's decision during the pendency of the appeal.

6. The Police Chief shall conduct a background investigation of all applicants including a check of the applicants' background by the Department of Criminal Investigation.

127.06 FEES. The annual fee for a sexually oriented business permit is five hundred dollars ($500.00). This fee is to be used to pay for the cost of the administration and enforcement of this chapter.

127.07 INSPECTION. An applicant or permittee shall permit representatives of the Police Department or other City or State department or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

127.08 EXPIRATION OF PERMIT.

1. Each permit shall expire one year after the date of issuance and may be renewed only by making application as provided herein. Application for renewal should be made at least thirty (30) days before the expiration date and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

2. When the Director denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to the denial, the Director finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the denial became final.

127.09 SUSPENSION. The Director shall suspend a permit for a period not to exceed thirty (30) days if it is determined that the permittee or an employee of a permittee has:

1. Violated or is not in compliance with any section of this chapter;

2. Become impaired or intoxicated through the use of alcoholic beverages or controlled substances while on the sexually oriented business premises;

3. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

4. Knowingly permitted illegal gambling by any person on the sexually oriented business premises.

127.10 REVOCATION.

1. The Director shall revoke a permit if a cause of suspension in Section 127.09 occurs and the permit has been suspended within the preceding twelve (12) months.

2. The Director shall also revoke a permit if it is determined that:

A. A permittee gave false or misleading information in the material submitted during the application process.

B. A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.

C. A permittee or an employee has knowingly allowed prostitution on the premises.

D. A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.

E. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the premises.

F. A permittee is delinquent in the payment to the City or State for any taxes or fees past due.

G. The owner or operator of the establishment knowingly allowed a person under eighteen (18) years of age to enter an establishment.

H. There was a change of owner or operator for which a transfer application was not filed in a timely manner.

3. When the Director revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued a sexually oriented business permit for one year from the date revocation became effective. If, subsequent to revocation, the Director finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the revocation became effective.

127.11 TRANSFER OF PERMIT. A permittee shall not transfer the permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

127.12 LOCATION RESTRICTIONS. Sexually oriented business shall be permitted in zoning districts as provided in the City of Guttenberg Zoning Ordinance, provided that:

1. The sexually oriented business may not be operated within 400 feet of:

   A. A church, synagogue or regular place of religious worship;

   B. A public or private elementary or secondary school;

   C. A boundary of any residential district;

   D. A public park;

   E. A licensed day-care center; or

   F. Another sexually oriented business.

2. A sexually oriented business may not be operated in the same building, structure or portion thereof, containing another sexually oriented business.

3. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district or residential lot, or licensed day-care center.

4. For purposes of subsection 3 of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

127.13 NONCONFORMING USES.

1. Any business lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of the configuration requirements with regard to structure and location contained in this chapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period

of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

2. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, synagogue or regular place of religious worship, public or private elementary school or secondary school, licensed day-care center, public park, or residential district within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

127.14 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

1. Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

2. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business permit, rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, rents or sub-rents the same sleeping room again.

For purposes of subsection 2 of this section, the term “rent” or “sub-rent” means the act of permitting a room to be occupied for any form of consideration.

127.15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction that depicts “specified sexual activities” or “specified anatomical areas”, shall comply with the following requirements:

1. Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan

thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director.

4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this section.

7. No viewing room may be occupied by more than one person at any time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to an illumination of not less than one foot-candle as measured at the floor level.

9. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

127.16 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.

1. It is unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2. It is unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

3. It is unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

A. The establishment is a part of a commercial multi-unit center; and

B. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

C. Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

127.17 SIGNAGE.

1. Notwithstanding any other City ordinance, code or regulation to the contrary, it is unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any

sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.

2. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

A. Not contain any flashing lights;

B Be a flat plane, rectangular in shape;

C. Not exceed seventy-five (75) square feet in area; and

D. Not exceed ten (10) feet in height or ten (10) feet in length.

3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

4. Each letter forming a word on a primary sign shall be of solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

5. Secondary signs shall have only one display surface. Such display surface shall:

A. Be a flat plane, rectangular in shape;

B. Not exceed twenty (20) square feet in area;

C. Not exceed five (5) feet in height and four (4) feet in width; and

D. Be affixed or attached to any wall or door of the enterprise.

6. The provisions of paragraph A of subsection 2 and of subsections 3 and 4 shall also apply to secondary signs.

127.18 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED.

1. It is unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:

A. A valid operator's commercial operator's or chauffeur's driver's license; or

B. A valid personal identification certificate issued by the State reflecting that such person is 18 years of age or older.

127.19 MASSAGES OR BATHS ADMINISTERED BY PERSON OF OPPOSITE SEX. It is unlawful for any establishment, regardless of whether it is a public or private facility, to operate a massage salon, massage parlor or any similar type of business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless licensed by the State of Iowa.

127.20 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED. The permittee of a sexually oriented business shall not allow the possession or consumption on premises by any person of any alcoholic beverage, wine or beer. No person shall possess or consume any alcoholic beverage, wine or beer on the premises of any sexually oriented business.

127.21 NOTICES.

1. Any notice required or permitted to be given by the Director or any other City office, division, department or other agency under this chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Director, or any notice of address change that has been received by the Director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Director shall cause it to be posted at the principal entrance to the establishment.

2. Any notice required or permitted to be given to the Director by any person under this chapter shall not be deemed given until and unless it is received in the office of the Director.

3. It is the duty of each owner who is designated on the permit application and each operator to furnish a notice to the Director in writing of any change of residence or mailing address.

127.22 INJUNCTION. A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this chapter is subject to a suit for injunction as well as prosecution for criminal violations.

127.23 EXEMPTIONS. It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated by:

1. A proprietary school licensed by the State of Iowa or a college, junior college or university supported entirely or partly by taxation; or

2. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

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CHAPTER 128

MOBILE FOOD VENDORS

128.01 Definitions
128.02 Mobile Food Unit License Required
128.03 Mobile Food Unit Licensing Application
128.04 Mobile Food Vendor Locations
128.05 Property Owner/Lessee Responsibility
128.06 License Fees
128.07 Compliance with the Law
128.08 Suspension or Revocation of License

128.01 DEFINITIONS.

1. "Mobile food vendor:" a person engaged in the business of selling food or beverages from a mobile food unit (self-contained motorized vehicle, trailer or pushcart).

2. "Pushcart:" a pushcart is a non-motorized vehicle with dimensions not exceeding 4 feet in width and 8 feet in length and 8 feet in height and being capable of being moved and kept under control by one person traveling on foot.

128.02 MOBILE FOOD UNIT LICENSE REQUIRED. It shall be unlawful for any person to engage in the sale of food or beverages from a mobile food unit without first obtaining a mobile food unit license. A mobile food unit license issued by the City Clerk or the City Clerk's designee shall be subject to the following:

1. A mobile food unit license is an annual license that expires on December 31st each year.

2. Each mobile food unit shall be licensed separately. No license transfer is allowed.

3. Each mobile food unit shall comply with State of Iowa inspection requirements and display its state license in full view of the public in or on the unit.

4. Each mobile food unit shall have a working fire suppression system.

5. Exempt. Vendors that are permitted through the Chamber of Commerce or other community organization in conjunction with community special events shall be exempt from the requirements of this section.

128.03 MOBILE FOOD UNIT LICENSING APPLICATION.

1. Filing. Application requests shall be filed with City Hall. No application request shall be accepted for filing and processing unless it

conforms to the requirements of this chapter. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the required fees.

2. Timely Submittal. Unless otherwise provided herein, applications must be submitted not less than ten (10) calendar days prior to the proposed start date of the mobile food unit activities. The City reserves the right to reject any applications that have not been timely submitted to the City.

3. Application Contents. Application shall be made on a form provided by the City and shall include:

A. Full name of the applicant.

B. Applicant's contact information including mailing address, phone numbers and e-mail address.

C. Photographs of the mobile food unit from the front, side and back.

D. Make, model, and year of the vehicle to be used and the license plate number (if required).

E. Overall size of the vehicle; to include length, width, and height.

4. Right to Appeal. Any applicant whose application for license was disapproved may appeal to the City Council at its next regularly scheduled meeting by filing with the City Clerk or the City Clerk's designee a written request for an appeal to the City Council at least seven (7) days prior to the meeting. As a result of this appeal, the City Council may affirm, modify or reverse the decision of the Clerk not to issue the license. If the application for license is denied, the applicant is not eligible for the issuance of a license under this chapter for a period of one year from the date of notification that the license application was disapproved, was served in person or deposited in U.S. Mail.

5. Applications Deemed Withdrawn. Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the City and made reasonable progress within thirty (30) days from the last notification from the City to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

6. Issuance of License. Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk or the City Clerk's designee will issue a mobile food unit license.

128.04 MOBILE FOOD VENDOR LOCATIONS.

1. Mobile Food Units on Public Property. A mobile food unit (non-pushcart) may be parked on public property or street (on a non-residential side) as approved in the licensing application or as part of a City approved event under a public property special event permit issued by the special event organizer (I.E. Chamber of Commerce). Mobile food units may not park within a City park, greenway, south marina parking and access area, or north marina parking and access area. Mobile units also are prohibited from parking within 100 feet of any façade or outdoor seating of a ground level establishment that sells prepared food or beverages (this only applies from one hour before the establishment's opening to an hour after closing) without approval from the food establishment owner.

2. Pushcarts are permitted to operate within City parks, walkway or greenways as well as private property (with property owner approval). However, a minimum forty-eight inch (48") open walkway must be maintained for passing pedestrians. The placement of the pushcart shall be in such a manner so as to minimize encroachment into the forty-eight inch (48") walkway by patrons waiting in line for service from the pushcart. Request for authorization to vend within a City park or greenway (not as part of a City permitted public property special event) may be submitted no less than five (5) days and no more than fifteen (15) days prior to the requested day of vending. Pushcarts are prohibited from operating in the north marina parking and access area and the south marina parking and access area.

3. No mobile food unit shall be left unattended or stored on any site overnight, unless that property is under the ownership or control of (by way of a lease or other contractual agreement) the operator of the unit and is being done so in compliance with all other City Code requirements or the mobile food unit is a participant in a multiple (contiguous) day, City permitted, public property special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to license revocation, towing, or any other action legally allowed.

4. Music and Sound Making Devices. The use of music or sound making devices as a part of a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.

5. Mobile Food Unit Performance Standards. Persons conducting business from a mobile food unit must do so in compliance with the following standards:

A. The mobile food vendor must obtain expressed written consent of the property owner or lessee to use the property on which they propose to operate or from the City if a pushcart on public property. The written consent must be kept in the unit at all times that the unit is on the property. Written consent does not excuse or permit the violation of any other imposable regulations.

B. The operator of the mobile food unit shall display their City license in full view of the public in or on the unit.

C. Mobile food units that are within three hundred feet (300') of a residential use or residentially zoned property, shall be limited to hours of operation between seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m.

D. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.

E. The mobile food unit (non-pushcart) must be located on a paved or rocked surface.

F. No mobile food unit may be located on a vacant property or lot with a vacant building. Exceptions to this rule may be granted by City Clerk after a review of the particular property and the vendor has been able to make arrangements to ensure safe and sanitary conditions. This would include, but is not limited to: employee access to restrooms, adequate access for fire and police personnel/vehicles, and that the site in general is free from hazards or dangerous conditions.

G. All mobile food units shall maintain a minimum separation from buildings of ten feet as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the food unit shall not impede pedestrians entering or exiting a building.

H. 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. Adequate safe space for patrons waiting for their order

must be available on the property where the mobile food unit is located.

I. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than six inches (6") from the exterior of the unit. No freestanding signs, banners, flags, or similar items are allowed. Off premises signs directing patrons to the mobile food unit are prohibited.

J. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers and shall keep the area around the mobile food unit clear of litter and debris at all times.

K. All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

128.05 PROPERTY OWNER/LESSEE RESPONSIBILITY. By allowing the mobile food unit on their property, the property owner or lessee jointly and severally with the vendor are responsible for compliance with this chapter and to ensure the safety of pedestrians and access of emergency vehicles to and around the site. Failure to do so could result in the property owner or lessee being a party to any enforcement actions or penalties allowed by law.

128.06 LICENSE FEES. At the time of the submittal of a license application, the applicant shall pay to the City the applicable license fee in addition to any applicable inspection fee(s). The fee schedule will bet set by resolution and may be modified from time to time with approval by resolution of the City Council.

Any licensee who surrenders their license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

128.07 COMPLIANCE WITH THE LAW. Each mobile food unit vendor shall comply with all applicable federal, state, and local laws, regulations, and rules.

128.08 SUSPENSION OR REVOCATION OF LICENSE. Any license issued under the provisions of this chapter may be suspended or revoked by the City as follows:

1. Grounds. The City Clerk or the City Clerk's designee may suspend or revoke any license issued under this chapter, for any of, but not limited to, the following reasons:

A. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.

B. The licensee has violated this chapter or any other chapter of this Code or has otherwise conducted his/her business in an unlawful manner.

C. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.

D. The City Clerk or the City Clerk's designee has received and investigated three (3) or more found complaints during the licensed period related to the manner in which the licensee is conducting business.

2. Notice of Suspension or Revocation; Right to Appeal: The City Clerk or the City Clerk's designee shall cause notice of the license revocation to be served in person by a City official or by mail to the licensee's local address, which notice shall specify the reason(s) for such action, at which time operations of the licensee must cease within the corporate limits of the City of Guttenberg. The licensee may appeal the revocation of the license to the City Council at its next regularly scheduled meeting by filing with the City Clerk or the City Clerk's designee a written request for an appeal to the City Council at least seven (7) days prior to the meeting. The City Council may affirm, modify or reverse the decision of the City Clerk or the City Clerk's designee to revoke such license. If a license is revoked, no refund of any license fee paid shall be made. Upon the revocation of a license, the licensee is not eligible for the issuance of a new license under this chapter for a period of one year from the date the license revocation is served in person or deposited in the U.S. Mail.

(Ch. 128 – Ord. 658-20 – Aug. 20 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of

storage, exhibition, sale or offering same for sale, without permission of the Police Chief.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, except when such work is done by a person cleaning their own vehicle or equipment when it is adjacent to private property and where such person has secured the private property owner's permission to do so.

(Ord. 661-20 – Aug. 20 Supp.)

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

B. A statement of the purpose, for whom and by whom the excavation is to be made;

C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars ($1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the

course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars ($1,000.00) may be filed with the City.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

A. Bodily Injury - $500,000.00 per person; $1,000,000.00 per accident.

B. Property Damage - $1,000,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Fee. A permit fee of Twenty-Five Dollars ($25.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation. ***(Ord. 603-16 – Aug. 16 Supp.)***

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice and Accumulations
136.04 Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Permit Required
136.08 Sidewalk Standards
136.09 Barricades and Warning Lights
136.10 Failure to Repair or Barricade
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136.12 Awnings
136.13 Encroaching Steps
136.14 Openings and Enclosures
136.15 Fires or Fuel on Sidewalks
136.16 Defacing
136.17 Debris on Sidewalks
136.18 Merchandise Display
136.19 Sales Stands
136.20 Canopies and Balconies
136.21 Outdoor Restaurant Seating License

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:

A. Vertical separations equal to three-fourths (¾) inch or more.

B. Horizontal separations equal to one (1) inch or more.

C. Holes or depressions equal to three-fourths (¾) inch or more and at least four (4) inches in diameter.

D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half (½) inch or more.

E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths (¾) inch or more.

F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

G. A sidewalk with any part thereof missing to the full depth.

H. A change from the design or construction grade equal to or greater than three-fourths (¾) inch per foot.

3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. "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.

6. "Portland cement" means any type of cement except bituminous cement.

7. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

8. "Sidewalk improvements" means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

9. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to:

1. Sidewalks. Remove snow, ice and accumulations promptly from sidewalks.

2. Canopies and Balconies. Remove snow, ice and accumulations promptly from canopies and balconies or provide drainage in order that melting snow and ice are drained to the street gutter and not deposited on the sidewalk.

If a property owner does not remove snow, ice or accumulations within a reasonable time, or provide proper canopy and balcony drainage, the City may do so and assess the cost against the property owner for collection in the same manner as their property tax.

(Ord. 495-07 – Apr. 07 Supp.)

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to

maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of

approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and extended out no more than three (3) feet from the building. The roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

(Ord. 645-19 – Nov. 19 Supp.)

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

136.20 CANOPIES AND BALCONIES. It is unlawful for a person to erect or maintain a balcony over any sidewalk without first obtaining approval from the Historic Preservation Commission and a special exception from the Zoning Board of Adjustment. Balconies shall be constructed in compliance with a blueprint showing it to be compatible with the building to which it is attached and embodying the historic characteristics of the district and be in compliance with Chapter 165, Zoning Regulations. ***(Ord. 645-19 – Nov. 19 Supp.)***

136.21 OUTDOOR RESTAURANT SEATING LICENSE. No person or entity shall operate a restaurant which provides outdoor seating on public property for the purpose of serving food or beverages, without a valid outdoor restaurant seating license.

1. Application for License. An outdoor restaurant seating license shall be granted only to the operator of a restaurant which is in conformance with City of Guttenberg Zoning Ordinance. An application

for an outdoor restaurant seating license shall be on a form provided by the City Clerk and shall additionally include:

A. Applicant Contact Information. The name, mailing address, phone number, and email address of the applicant.

B. Drawing. A detailed drawing to scale of the proposed site indicating the following: the existing facade, the points of ingress and egress, the proposed location of the tables, chairs, serving equipment, planters, borders, awnings, umbrellas, or other facilities to be included in the outdoor seating area. If the outdoor seating area is proposed to be located on a City sidewalk or other public right-of-way, the drawings must also include the location of existing public improvements, including fire hydrants, street signs, street lights, traffic signals, bus shelters, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, fire escapes or other overhead obstructions, and any other public obstruction.

C. Fee. The annual license fee of $50.00 for a seating area on public property.

D. Indemnification. Licensee shall sign an agreement to indemnify, defend, and hold harmless the City for any and all claims for liability or damages arising from the operation of the outdoor restaurant seating area.

E. Insurance. A certificate of general liability insurance, workers compensation insurance, and, if applicable, dram shop insurance. The amount of required coverage shall be approved by the City's insurance carrier, but in no event shall liability coverage be in an amount less than $1,000,000 per occurrence and $500,000 per person. The City shall be named as an additional insured on the face of the certificate.

F. Administrative Review. When the City Clerk determines that the application is complete, the application shall be reviewed by the City Council. Upon approval of the City Council, the City Clerk shall issue the outdoor restaurant seating license.

2. License Requirements. Issuance and continued enjoyment of the outdoor restaurant seating license shall be conditioned on the following:

A. The licensee shall comply with all applicable Federal, State, and City health and sanitation laws and regulations, and operation of the outdoor restaurant seating area shall not be detrimental to the health, safety, or welfare of persons residing or working in the vicinity.

B. No outdoor keeping or storage of food or beverages to be served shall be permitted. No open keeping or storage of used dishes, utensils or

food scraps shall be permitted. Self-closing outside trash containers shall be used.

C. Operation of outdoor restaurant seating areas shall be permitted only:

(1) Between April 15 and October 15, and

(2) At such times as the main place of business is open, and

(3) Between 6:00 a.m. and 11:00 p.m.

D. No animals, except those assisting the disabled, shall be allowed in the outdoor restaurant seating area.

E. Smoking is prohibited in an outdoor seating area governed by this permit.

F. The sale and consumption of alcoholic beverages in the outdoor seating area shall be restricted by the liquor license governing the restaurant. Any outdoor seating area where alcoholic beverages are sold or consumed shall be enclosed by a border. No alcoholic beverages may be removed from the outdoor seating area; except to the interior of the restaurant.

G. The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.

H. The use of public sidewalks or right-of-way for outdoor restaurant seating shall be permitted only when incidental to the operation of a restaurant on private contiguous property and only along the frontage of said restaurant. Or in the case of a corner location, the City Council may consider the side of the intersecting street.

I. In no event shall the operation of the outdoor restaurant seating area interfere with the passage of pedestrian or vehicular traffic, or reduce the open portion of the public sidewalk to less than four (4) feet clear of all obstructions, measured from edge of the sidewalk closest to the curb (or lampposts or parking meters where such exist).

J. In no event shall the placement of furnishings for the outdoor restaurant seating area or the operation of the outdoor restaurant seating area obstruct access to any crosswalk, mailbox, curb cut, parking space or any other public property, or obstruct necessary access to any fire hydrant, fire escape or fire door, or obstruct the clear view of any traffic signal, regulatory sign or street sign.

K. The licensee shall be responsible for the maintenance and upkeep of the public right-of-way used for the outdoor restaurant seating area

and the replacement of damaged public property. No furniture or furnishings may be attached by any means to the public sidewalk or any other public property.

L. When notified by the City to do so, the licensee shall promptly remove all furnishings and obstructions from the public sidewalk or right-of-way, to accommodate special events permitted by the City or to accommodate City repair or maintenance of the public sidewalk or right-of-way.

M. No electrical appliances or conductors, open flame devices, petroleum products or other flammable liquids, shall be placed or kept in the outdoor seating area.

N. No furnishings and obstructions shall be permitted on the public sidewalk or right-of-way from November 1 each year through and including April 30 of the succeeding year.

3. License Renewal. Each outdoor restaurant seating license shall be valid for a term of one (1) year, and may be renewed annually thereafter. A renewal application shall provide all the same information as an original application, but copies of the previous year's site plan may be used if there are no changes from the last submission.

4. License Revocation. Outdoor restaurant seating licenses may be suspended or revoked by the City Council for any violation of license requirements as described herein.

5. License Termination. Outdoor restaurant seating licenses for use of the public sidewalk or other public property shall not constitute personal property, and the City shall retain at all times the right to terminate any license for use of public property, or may completely eliminate this class of license, upon thirty (30) days written notice to the license holder(s). Should the City terminate any license other than for reason of a violation of the requirements of this section, the City shall refund to the licensee the pro-rated portion of the annual fee paid by the licensee.

(Section 136.21 - Ord. 546-11 – Jul. 11 Supp.)

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*, and Section 7.09 of the City Code. ***(Ord. 549-11 – Aug. 11 Supp.)***

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
40	undated	314-89	May 8, 1989
unnumbered	1933	317-89	June 28, 1989
54	February 5, 1931	326-90	July 2, 1990
60	May 5, 1938	353-92	October 5, 1992
61	August 4, 1938	354-92	October 5, 1992
62	December 5, 1938	362-93	May 3, 1993
69	July 11, 1946	363-93	May 3, 1993
70	July 11, 1946	370-93	September 7, 1993
73	April 22, 1948	378-93	November 8, 1993
79	December 5, 1955	379-93	December 20, 1993
83	April 1, 1957	382-94	June 6, 1994
84	April 1, 1957	390-95	February 6, 1995
112	October 26, 1961	395-95	June 5, 1995
114-62	October 4, 1962	399-95	October 2, 1995
117-62	December 3, 1962	404-95	November 15, 1995
123-63	September 3, 1963	421-97	May 5, 1997
140-67	June 19, 1967	438-00	February 7, 2000
160-73	June 14, 1973	439-00	February 7, 2000
164-73	August 6, 1973	440-00	June 5, 2000
166-73	September 4, 1973	442-00	August 7, 2000
168-73	November 5, 1973	444-00	December 4, 2000
181-75	October 6, 1975	445-01	March 5, 2001
182-75	October 6, 1975	452-01	December 3, 2001
189-76	March 10, 1976	471-04	August 2, 2004
193-76A	January 4, 1977	477-05	August 1, 2005
194-77	February 7, 1977	478-05	September 7, 2005
199-77	April 4, 1977	487-06	April 3, 2006
208-78	August 14, 1978	492-07	March 5, 2007
210-78	October 2, 1978	499-07	May 22, 2007
215-79	May 7, 1979	510-08	March 3, 2008
216-79	July 2, 1979	517-08	November 17, 2008
273-84	October 29, 1984	520-08	December 15, 2008
308-88	July 11, 1988	524-09	May 4, 2009

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
539-11	January 4, 2011		
541-11	February 15, 2011		
547-11	July 5, 2011		
557-12	July 2, 2012		
566-12	December 10, 2012		
567-13	March 4, 2013		
575-13	December 2, 2013		
597-16	February 8, 2016		
605-16	September 12, 2016		
631-18	December 10, 2018		
633-19	January 14, 2019		
634-19	January 14, 2019		
640-19	July 8, 2019		
649-19	October 14, 2019		
659-20	May 11, 2020		
670-21	July 12, 2021		
672-21	August 9, 2021		
681-21	October 11, 2021		
683-21	October 11, 2021		
686-21	December 13, 2021		
687-22	March 14, 2022		
701-23	February 13, 2023		
713-24	June 10, 2024		
714-24	September 9, 2024		
727-25	May 12, 2025		

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CHAPTER 138

STREET GRADES

138.01 Established Grades 138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
46	Undated		
151-72	December 18, 1972		
158-73	June 4, 1973		
232-80	August 11, 1980		
337-91	April 4, 1991		
392-95	March 6, 1995		
417-97	March 3, 1997		
422-98	February 25, 1998		
435-99	December 13, 1999		
467-03	November 3, 2003		
479-05	September 7, 2005		

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names
139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Guttenberg, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term "controlled access facility" means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. FN-371. On the Primary Road System extension improvement, Project No. FN-371, Primary Road No. U.S. 52, within the City, described as follows:

> Beginning at Station 490+15.2 (SCL), thence northerly to Station 509+50.0

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-371, on file in the office of the Clerk.

2. Project No. FN-52-2(3) – 21-22. On the Primary Road System extension improvement, Project No. FN-52-2(3) – 21-22, Primary Road No. U.S. 52, within the City, described as follows:

Beginning at Station 490+15.2, the south corporate line, thence northerly and northwesterly along primary road extension U.S. 52 to the west corporate line (Station 652+90)

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-52-2(3) – 21-22, on file in the office of the Clerk.

CHAPTER 141

MAILBOXES

141.01 Purpose
141.02 Prohibition
141.03 Permit
141.04 Cluster Style Boxes Required
141.05 Placement and Design
141.06 Nuisance
141.07 Exemption

141.01 PURPOSE. The purpose of this chapter is to provide standards for mailboxes in order to promote safety, prevent obstruction of free and clear vision, and permit routine maintenance of public's right-of-way.

141.02 PROHIBITION. No person shall maintain, construct or place any mailbox or delivery receptacle upon any public way in the City except in conformity with the provisions of this chapter and pursuant to permission granted by the City.

141.03 PERMIT. No person shall place a mailbox in the public right-of-way without a permit therefore from the City Manager.

141.04 CLUSTER STYLE BOXES REQUIRED. All mailboxes, except as otherwise herein provided, shall be set in cluster style mailboxes.

141.05 PLACEMENT AND DESIGN. No person shall place a mailbox in the public right-of-way unless such mailbox complies with the classifications, placements, models, manufacturers, and breakaway construction specifications in the United States Postal Services standards and "Postal Operations Manual," then currently in force.

141.06 NUISANCE. A mailbox placed in the public right-of-way which does not meet the requirements of this chapter is hereby declared a public nuisance. Upon written notice from the City Manager, the property owner shall remove a mailbox placed in the public right-of-way which does not meet the requirements of this chapter, and if a property owner fails to remove such mailbox, the City Manager shall cause the mailbox to be removed at the property owner's expense.

141.07 EXEMPTION. All mailboxes in existence along Garber Road (County Road C7X) and Miners Creek Road at the time of the adoption of the ordinance codified in this chapter (January 5, 2015) may remain.

(Ch. 141 – Ord. 583-15 – Feb. 15 Supp.)

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner
145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish
145.08 Costs

145.01 ENFORCEMENT OFFICER. The City Manager is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF GUTTENBERG, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

DEMOLITION OF BUILDINGS

146.01 Definitions
146.02 Demolition Permit
146.03 Permit Requirements
146.04 Water and Sewer Removal
146.05 Demolition of Historic Structures
146.06 Owners Responsibility
146.07 Enforcement, Violation and Penalty

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

1. "Building" means any structure designed or built for the support, enclosure, shelter or protections of persons, animals, chattels or property of any kind.

2. "Commission" means the Guttenberg Historical Preservation Commission, as established by Chapter 28 of this Code of Ordinances.

3. "Demolish" or "demolition" means the intentional razing, tearing down, leveling, destruction, wrecking, or demolishing of any building.

4. "Excavation" means any basement, opening, hole or other similar opening in the ground remaining after the demolition of any building.

5. "Historic structure" means a structure or building which:

   A. Is associated with events that have made a significant contribution to the broad patterns of our lives;

   B. Is associated with the lives of persons significant to our past;

   C. Embodies the distinctive characteristics of a type, period or method of construction, or that represents a work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

   D. Has yielded, or may be likely to yield, information important in prehistory or history.

146.02 DEMOLITION PERMIT. No person shall demolish any building within the City without first obtaining a written permit for the same from the City. The issuance of a permit by the City shall not render the City responsible or liable for any damages which may ensue by the permittee's demolition of a building, and said permittee will indemnify and defend the City should action be brought for the same. Any judgement or action rendered in a case involving

damages for demolition of a building shall be the sole responsibility of the permittee.

146.03 PERMIT REQUIREMENTS. Demolition permits may be obtained from the office of the Clerk. Permits shall be issued at a cost of ten dollars ($10.00), but no permit shall be issued until the applicant therefor has given written assurances with respect to the disconnection and removal of existing sewer and water service lines serving the property demolished. The party requesting the permit must also supply the City with a schedule of demolition, and the demolition must be completed within such time schedule, but no later than two (2) weeks or fourteen (14) days after initial action to demolish the building has begun. An extension can be issued with this permit for special circumstances (such as dismantling) before excavation. Completion of the demolition of the building shall include the building and any basements, cisterns or other open areas.

146.04 WATER AND SEWER REMOVAL. No person shall demolish any building or backfill or grade any excavation remaining after the demolition of any building without providing for the appropriate disconnection of service lines (City) any water or sewer service lines serving said property, and the disconnection and removal of said service lines shall be performed under City supervision and to City specifications.

146.05 DEMOLITION OF HISTORIC STRUCTURES. If a property owner within the City proposes to modify a structure that may have a particular architectural or historic significance within the City by demolition, the property owner shall first apply for approval from the Commission. The Chairperson of the Commission shall be notified of the application and said Chairperson shall make a determination whether the building proposed for demolition has historic or architectural significance to the community. If the Chairperson determines there may be some historical or architectural significance attached to the building, the Chairperson shall call a special meeting of the Commission to tour the structure with the property owner. Upon determining if the structure is historically or architecturally significant, the Commission may:

1. Encourage the property owner to preserve and/or restore the structure;

2. Assist/encourage the property owner to get the property listed on the National Register of Historic Places;

3. Ask the property owner to allow the Commission time to photograph the structure prior to demolition.

4. The Commission shall maintain, on file at the public library, a notebook with a collection of photographs of historic structures that have been demolished within the City.

146.06 OWNERS RESPONSIBLITY. All costs and expenses incident to the work shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such work. It is the owner's responsibility to verify that the contractor and workers are properly covered with property and liability insurance and that the demolition is completed in a reasonable time and that all debris is removed.

146.07 ENFORCEMENT, VIOLATION AND PENALTY.

1. Enforcement. The City Manager may order any demolition to cease which is not in compliance with this chapter or with a demolition permit issued.

2. Penalties for Violation. Violation of provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. The owners or tenants of any building, structure, premises or part thereof, or other person who commits, participates in, or maintains such violation, may each be found guilty of a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ch. 146 – Ord. 641-19 – Aug. 19 Supp.)

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Plan

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Duty to Trim Trees
151.04 Trimming Trees to be Supervised
151.05 Disease Control
151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, "parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.

2. Spacing. Trees shall not be planted on any parking which is less than five (5) feet in width, or contains less than seventy-five (75) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.

3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs on any City property (including the strip between the curb and the lot line of private property) reported or suspected to be dead, diseased or damaged. The Council may cause such conditions to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon. ***(Ord. 555-12 – May 12 Supp.)***

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CHAPTER 155

OUTDOOR LIGHTING CODE

155.01 Title
155.02 Purpose and Intent
155.03 Applicability
155.04 Definitions
155.05 Control of Glare
155.06 Outdoor Advertising Signs
155.07 Recreational Facilities
155.08 Shoreland Lighting
155.09 Prohibitions
155.10 Development Permits
155.11 Light Trespass
155.12 Exemptions

155.01 TITLE. This chapter shall be known as the Guttenberg Outdoor Lighting Code.

155.02 PURPOSE AND INTENT. It is the intent of this chapter to define practical and effective measures by which the obtrusive aspects of excessive and/or careless outdoor light usage can be minimized, while preserving safety, security and the use and enjoyment of property. These measures will curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the wastage of light and glare resulting from over-lighting and poorly shielded or inappropriately directed lighting fixtures.

155.03 APPLICABILITY. All public and private outdoor lighting installed in the City shall be in conformance with the requirements established by this chapter, unless specifically exempted herein.

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

1. "Direct light" means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

2. "Fixture" means the assembly that houses the lamp or lamps and can include all or some of the following parts: a housing; a mounting bracket or pole socket; a lamp holder; a ballast; a reflector or mirror; and/or a refractor or lens.

3. "Fully shielded lights" means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by the manufacturer or a photometric test report.

4. "Glare" means a light ray emanating directly from a lamp, reflector or lens such that it falls directly on the eye of the observer.

5. "Grandfathered luminaires" means luminaires not conforming to the Outdoor Lighting Code that were in place at the time the Outdoor Lighting Code went into effect.

6. "Lamp" means the component of a luminaire that produces the actual light.

7. "Light trespass" means the shining of direct light produced by a luminaire beyond the boundaries of the property on which it is located.

8. "Lumen" means a unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of these regulations, the lumen-output values shall be the initial lumen output ratings of a lamp. Examples of lamp types of less than 2000 lumens are: 100 Watt incandescent; 15 Watt Cool White florescent; 15 Watt compact florescent; 18 Watt Low Pressure Sodium.

9. "Luminaire" means a complete lighting system, and includes a lamp or lamps and a fixture.

10. "Monument signs" means public information signs or monuments in public spaces or parks that provide general public information or commemorate details, events or persons of some historic import.

11. "Outdoor lighting" means the night-time illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

155.05 CONTROL OF GLARE. Any luminaire with a lamp rated at 2000 lumens or more shall not emit, in its installed position, any direct light above a horizontal plane through the highest direct light emitting part of the luminaire. Any luminaire with a lamp rated at 2000 lumens or more shall not emit, in its installed position, any more than 5% of its total light output in the zone from 15 degrees below the horizontal to the horizontal plane through the lowest direct light emitting part of the luminaire.

155.06 OUTDOOR ADVERTISING SIGNS.

1. Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements of Section 155.04(3). Notwithstanding the foregoing, ground-mounted monument signs may be illuminated with a ground-mounted or a bottom-mounted lighting fixture, provided that the light output shall be directed totally to the monument sign surface to prevent up-lighting and glare.

2. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding. Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects.

3. Electrical illumination of outdoor advertising off-site signs between the hours of 10:00 p.m. and 6:00 a.m. shall be done by means of lights directed downward.

155.07 RECREATIONAL FACILITIES. Lighting of outdoor recreational facilities, such as (but not limited to) sport fields and courts and special event or show areas, shall meet the following conditions:

1. All fixtures used for such lighting shall be fully shielded as defined in Section 155.04 (3), or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.

2. Illumination of the playing field, court, track or event site after midnight is prohibited except to conclude a scheduled event that was scheduled to be completed before 11:00 p.m. that circumstances prevented concluding before 11:00 p.m.

155.08 SHORELAND LIGHTING. The purpose of this section is to minimize light pollution of the shoreland environment without significantly inhibiting safety and security. This section applies to all lighting on berthing structures, piers or docks or designed to illuminate those structures.

1. Flashing and rotating lights are prohibited.

2. Lighting inside a boathouse and intended to illuminate its interior is permitted.

3. Lighting on exteriors of berthing structures, piers or docks shall be fitted with opaque shields to prevent direct visibility of the lamp to persons on public waters or adjacent lands more than 50 feet beyond the berthing structure.

4. Lighting not mounted on a berthing structure, piers or docks – but designed to illuminate such a structure or its immediate vicinity – shall comply with subsection 3 above.

5. Lighting installed on, or intended to illuminate, seasonally used berthing structures, piers or docks shall be turned off when not required for safety or security.

6. Public marinas may install illuminated signs with opaque shaded or shielded lighting that provide information pertaining to applicable Federal, State or municipal rules and regulations relating to electrical, fueling, waste and sewage disposal or other safety and environmental

matters. Such sign illumination shall not be visible from off the berth structure, piers or docks.

155.09 PROHIBITIONS.

1. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.

2. Towers. Lighting on towers is prohibited except as required by regulations of the Federal Aviation Administration.

3. Searchlights. The operation of searchlights for advertising purposes is prohibited.

155.10 DEVELOPMENT PERMITS.

1. Submission Contents. The applicant for any permit or site plan approval required by any provision of this Code of Ordinances shall submit (as part of the application for site plan approval or a permit) evidence that the proposed work or activity will comply with the Outdoor Lighting Code. Specifically, the application or submission shall include plans indicating the location on the premises, and the type and details, showing the angle of cut off or light emissions, of illuminating devices, fixtures, lamps, supports, reflectors, and other devices.

2. Additional Submission. The above required plans, descriptions and data shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the requirements of the Outdoor Lighting Code will be secured. The applicant shall submit additional information as requested that is reasonably necessary to determine compliance with this section.

3. Lamp or Fixture Substitution. Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the zoning official for approval, together with adequate information to assure compliance with this chapter, which must be received prior to substitution.

155.11 LIGHT TRESPASS. All nonexempt outdoor lighting fixtures shall be designed, installed, and maintained to prevent light trespass. Outdoor lighting fixtures shall be installed and thereafter maintained so as not to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby property or nearby land. If such condition should occur, the luminaire shall be redirected or its light output shall be controlled as necessary to eliminate such condition.

155.12 EXEMPTIONS.

1. Temporary Exemption. Any person may submit to the City Clerk a temporary exemption request. The City Clerk shall have five (5) business days from the date of submission of the request for temporary exemption (and all requested information) to act on the request. If approved, the expemption shall be valid for not more than thirty (30) days after the date of issuance of the approval. The approval may be renewed, at the discretion of the City Clerk, for a maximum of one additional 30-day period. The City Clerk is not authorized to grant more than one temporary permit and one renewal for the same property within one calendar year. If the request for temporary exemption or its extension is disapproved, the person making the request can appeal the decision to the City Council. The request shall include the following information;

A. Specific exemptions requested.

B. Duration of requested exemption.

C. Proposed location on premises of the proposed light fixture(s).

D. Purpose of the proposed lighting.

E. Information for each luminaire and lamp combination as required herein.

F. Previous temporary exemptions, if any.

G. Such other data and information as may be required by the designated official.

2. Existing Luminaires. Luminaires lawfully in place prior to the effective date of the Outdoor Lighting Code shall be grandfathered. Replacement luminaries shall meet the terms of this chapter where possible. Where not possible, such grandfathered luminaries may be replaced with a like kind of luminaire unless more than 50 percent of the like kind of luminaries on the same premises is being replaced. In such case all the replacement luminaries on the premises shall meet the standards of the Outdoor Lighting Code.

3. Government Facilities. Compliance with the intent of this chapter at government facilities is encouraged; however, those facilities are exempt from the requirements of this chapter.

4. Emergency Lighting. Emergency lighting used by police, firefighting or medical personnel, or at their direction, is exempt from all requirements of this chapter for as long as the emergency exists.

5. Swimming Pool and Fountain Lighting. Underwater lighting used for the illumination of swimming pools and fountains is exempt from the lamp type and shielding standards provided herein, though it must conform to all other provisions of this chapter.

6. Historic Facilities. A building or structure that has been designated for historic preservation by the City, State of Iowa, or the National Park Service shall be exempt from the "fully shielded" requirements, if a historic restoration cannot be achieved by other means.

CHAPTER 156

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

156.01 Purpose
156.02 Permit Required
156.03 Sediment Control and Site Stabilization Plan
156.04 Fees
156.05 Stockpile
156.06 Appeal
156.07 Violation

156.01 PURPOSE. The purpose of this chapter is to regulate activities involving topsoil disturbance and excavation.

156.02 PERMIT REQUIRED. In order to secure compliance with all provisions of this chapter, an excavation certificate is required:

1. Applications for excavation permits shall be made prior to commencement of the activity on fully completed application forms obtained from the Administrative Officer, accompanied by:

   A. Plans, specifications and supporting documents and materials sufficient to allow the Administrative Officer to determine the potential for sediment and other pollutant discharges.

   B. A sediment control and site stabilization plan.

2. Before any activity involving topsoil disturbance or excavation of an area exceeding 400 square feet of surface area, or 100 square feet of surface area at sites with a 20% slope or greater; an excavation permit shall be required, unless the activity is non-commercial gardening.

3. The Administrative Officer shall issue an excavation permit stating that the proposed activity complies with all provisions of this chapter, and no subsequent modification shall be made to plans or to the activity which would be in violation of this chapter.

4. The Administrative Officer may suspend or revoke an excavation permit if issued in error on the basis of incorrect information supplied, or in violation of any City, State or federal law.

5. The Administrative Officer may suspend or revoke an excavation permit if the activity is conducted contrary to the approved Sediment Control and Site Stabilization Plan.

6. Every excavation permit shall expire by limitation and become null and void if the activity authorized by the permit is not commenced within ninety (90) days from the date of the issuance of the permit.

7. Unless otherwise designated by the City Council, the City Clerk is the Administrative Officer.

156.03 SEDIMENT CONTROL AND SITE STABILIZATION PLAN. The Sediment Control and Site Stabilization Plan shall be designed to stabilize steep or long continuous slopes during topsoil disturbance activities and to control the quantity and quality of storm water leaving the site before, during and after the activity for stabilization of waterways and outlets and to protect storm sewer infrastructure from sediment loading/ plugging and to assure stabilization of disturbed areas, including utility construction areas, as soon as possible and to protect outlying roads from sediment and mud from site activities, including trucking, and to provide for disposal of collected sediment and floating debris.

156.04 FEES. The application for excavation permit described above shall be accompanied by the payment of a fee in the amount of fifty dollars ($50.00).

156.05 STOCKPILE. Ten (10) cubic yards or greater stockpiles of soil or other materials subject to erosion by wind or water shall be 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. In no event shall stockpiling be permitted for periods exceeding ninety (90) days.

156.06 APPEAL. Any person aggrieved by the grant, denial, suspension, or revocation of an excavation permit by the Administrative Officer may appeal the Administrative Officer's decision to the City Council upon paying a fee of one hundred dollars $100.00. The appeal must be made in writing and delivered to the City Clerk. The hearing on the appeal shall be before the City Council at a time and place fixed by the City Council, which in no event shall be more than sixty (60) days after the date the appeal is delivered to the City Clerk. The findings of the City Council shall be conclusive.

156.07 VIOLATION. Any person who fails to comply with this chapter is in violation of this Code of Ordinances and subject to the municipal infraction or standard penalty provisions of this Code of Ordinances.

(Ch. 156 – Ord. 694-22 – Sep. 22 Supp.)

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CHAPTER 160

FLOOD PLAIN REGULATIONS

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160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

2. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

4. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "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 structures.

2. "Base flood" means the flood having one percent (1%) chance of being equaled or exceeded in any given year.

3. "Base flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

5. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. Development does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this chapter. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

6. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure."

7. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.

8. "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).

9. "Factory-built home" means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

10. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

11. "Five hundred 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 exceed at least once every five hundred (500) years.

12. "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.

13. "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.

13A. "Flood insurance study (FIS)" means a study initiated, funded, and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the community with the necessary information for adopting a flood plain management program; and establishing actuarial flood insurance rates.

14. "Flood plain" means any land area susceptible to being inundated by water as a result of a flood.

15. "Flood plain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

16. "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.

17. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

18. "Floodway fringe" means those portions of the Special Flood Hazard Area outside the floodway.

19. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to the construction next to the proposed walls of a structure.

20. "Historic structure" means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

21. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.11(4)(A); and

B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100- year flood level; and

D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

22. "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; power installations needed in emergency or other buildings or building complexes similar in nature or use.

23. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than $500.

24. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after September 15, 1984.

25. "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 these flood plain management regulations.

26. "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.

27. 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 structures or repair of a damaged structures. 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.

28. "Special flood hazard area" means the land within a community subject to the "base flood." This land is identified as Zone A, AE, AH, AO, AR, A1-30, and/or A99 on the Flood Insurance Rate Map.

29. "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.

30. "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 other similar uses.

31. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

32. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local

health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."

B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after September 15, 1984, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

33. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

34. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands within the jurisdiction of the City shown on the Official Flood Plain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain and Shallow Flooding (Overlay) Districts. The Flood Insurance Rate Map (FIRM) for Clayton County and Incorporated Areas, City of Guttenberg, Panels 19043C0336F, 0338F, 0339F, dated July 22, 2020, which were prepared as part of the Flood Insurance Study for Clayton County, is (are) hereby adopted by reference and declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this chapter.

160.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Flood Plain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this chapter.

160.05 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.06 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.07 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.08 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Flood Plain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.09 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The flood plain areas within the jurisdiction of this chapter are hereby divided into the following districts:

1. Floodway District (FW)
2. Floodway Fringe District (FF)
3. General Flood Plain District (FP)
4. Shallow Flooding District (SF).

The boundaries are as shown on the Official Flood Plain Zoning Map. Within these districts all uses not allowed as permitted uses or permissible as conditional uses are prohibited unless a variance to the terms of this chapter is granted after due consideration by the Board of Adjustment.

160.10 FLOODWAY (OVERLAY) DISTRICT - FW.

1. Permitted Uses. The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of material or equipment, excavation or alteration of a watercourse.

A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

B. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

D. Residential uses such as lawns, gardens, parking areas and play areas.

E. Such other open-space uses similar in nature to the above uses.

2. Conditional Uses. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment, excavation or alteration of a watercourse may be permitted only upon issuance of a conditional use permit by the Board of Adjustment as provided for in Section 160.19. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.

A. Uses or structures accessory to open-space uses.

B. Circuses, carnivals, and similar transient amusement enterprises.

C. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.

D. Extraction of sands, gravel, and other materials.

E. Marinas, boat rentals, docks, piers, and wharves.

F. Utility transmission lines and underground pipelines.

G. Other uses similar in nature to uses described in Subsection 1 and in this subsection which are consistent with the provisions of Subsection 3 and the general spirit and purpose of this chapter.

3. Performance Standards. All Floodway District development allowed as a permitted or conditional 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 uses within the Floodway District shall:

(1) Be consistent with the need to minimize flood damage.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other facility or system.

D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of equipment or materials 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.

160.11 FLOODWAY FRINGE (OVERLAY) DISTRICT - FF. 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. All development must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

1. All development shall:

   A. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.

   B. Use construction materials and utility equipment that are resistant to flood damage.

   C. Use construction methods and practices that will minimize flood damage.

(Subsection 1 – Ord. 663-20 – Aug. 20 Supp.)

2. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the base flood.

3. Nonresidential Structures. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 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) to which any structures are floodproofed shall be maintained by the Administrator.

4. All new and substantially improved structures.

A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.

A. All 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.

B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a base flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 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 Flood Plain (Overlay) District.

11. Accessory Structures to Residential Uses.

A. 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:

(1) The structure shall not be used for human habitation. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage.

(2) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation, collapse and lateral movement which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood level.

(6) The structure's walls shall include openings that satisfy the provisions of Section 160.11(4)(a).

B. Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.11(5) of this chapter regarding anchoring and

elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.11(5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the stream bed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Maximum Damage Potential Development. All new or substantially improved maximum damaged potential development shall have the lowest floor (including basement) elevated at minimum of one (1) foot above the elevation of the 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 of Iowa shall certify that the floodproofing methods used ar adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of 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 0.2% annual chance flood elevation date has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

160.12 GENERAL FLOOD PLAIN (OVERLAY) DISTRICT - FP.

1. Permitted Uses. The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by any

other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse.

A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

B. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.

C. Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

D. Residential uses such as lawns, gardens, parking areas and play areas.

2. Conditional Uses. Any development which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the Board of Adjustment as provided for in Section 160.19. All such development shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

3. Performance Standards.

A. All development 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 160.10).

B. All development to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe (Overlay) District (Section 160.11).

160.13 SHALLOW FLOODING (OVERLAY) DISTRICT - SF. All development within the Shallow Flooding District shall be permitted to the

extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District. The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the Flood Insurance Rate Map (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.

2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the Flood Insurance Rate Map.

3. In shallow flooding areas require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

160.14 ADMINISTRATION. The City Clerk shall administer and enforce this chapter and will herein be referred to as the Administrator. The duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State or local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

3. Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

4. Notify adjacent communities and/or countries and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

5. Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.

6. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

7. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

8. Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Council of potential conflicts.

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:

(1) An increase in the Base Flood Elevations, or

(2) Alteration to the floodway boundary

B. Development place in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or

C. Development relocates or alters the channel.

Within 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 ordinance.

11. Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

160.15 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.16 APPLICATION FOR PERMIT Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information.

1. Description of the work to be covered by the permit for which application is to be made.

2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.

3. Indication of the use or occupancy for which the proposed work is intended.

4. Elevation of the base flood.

5. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

7. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.17 ACTION ON PERMIT APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

160.18 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.19 CONDITIONAL USES, APPEALS AND VARIANCES. The Board of Adjustment shall hear and decide (i) applications for conditional uses upon which the Board is authorized to pass under this chapter; (ii) appeals, and (iii) requests for variances to the provisions of this chapter; and shall take any other action which is required of the Board.

1. Conditional Uses. Requests for conditional uses shall be submitted to the Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the Board of Adjustment.

2. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variances. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the

signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an appeal, an application for a conditional use or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an appeal, conditional use or variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a conditional use or variance, the Board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in Section 160.21.

160.20 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES IS BASED. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

2. The danger that materials may be swept on to other land or downstream to the injury of others.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the service provided by the proposed facility to the City.

6. The requirements of the facility for a flood plain location.

7. The availability of alternate locations not subject to flooding for the proposed use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

13. Such other factors which are relevant to the purpose of this chapter.

160.21 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.

2. Limitation on periods of use and operation.

3. Imposition of operational controls, sureties, and deed restrictions.

4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

5. Floodproofing measures designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

160.22 APPEALS TO THE COURT. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

160.23 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter.

2. Except as provided in subsection B above, any use which has been permitted as a conditional use or variance shall be considered a conforming use.

160.24 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

160.25 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

Conditional Uses or Variances) shall constitute a violation of the Code of Ordinances of the City of Guttenberg, Iowa. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be subject to the standard penalty provided at Section 1.14 of the Guttenberg City Code. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City of Guttenberg from taking such other lawful action as is necessary to prevent or remedy violation.

(Ch. 160 – Ord. 657-20 – Aug. 20 Supp.)

CHAPTER 161

RECREATIONAL VEHICLE PARK REGULATIONS

161.01 Purpose
161.02 Recreational Vehicle Park Requirements
161.03 Site Plan Required
161.04 Waiver

161.01 PURPOSE. The purpose and intent of this chapter is to protect and promote the public health, safety, and general welfare by allowing development of recreational vehicle parks upon conditions that such parks will have no harmful effect on, and will be developed compatible with, adjoining lands; and will have open areas that are natural in character.

161.02 RECREATIONAL VEHICLE PARK REQUIREMENTS. In determining whether or not to grant a special exception permitting a recreational vehicle park in a Zoning District, the Board of Adjustment shall review the applicant's site plan to determine that there is compliance with the following.

1. Principal Permitted Uses Only. Principal permitted uses include:

   A. Recreational vehicle sites established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers. Areas dedicated as campgrounds (tent occupancy) shall be identified in the Site Plan and approved by the Board.

   B. Buildings and structures necessary for the operation and maintenance of the park, or providing customary accessory uses of parks, including laundry facilities, office and equipment storage buildings.

   C. Community recreation facilities, for residents of the park and their guests, including swimming pools.

   D. Residences for the use of a manager and/or caretaker responsible for maintaining or operating the park which may be either a conventional single-family dwelling or a mobile home.

2. Development Standards. The required site plan shall show:

   A. Minimum Park Size. The minimum area for recreational vehicle park shall be one acre.

   B. Minimum Park Lot Requirements. The minimum recreational vehicle site lot shall be:

(1) Lot area – minimum of one thousand five hundred square feet (1,500 sq. ft.)

(2) Lot width – minimum thirty feet (30 ft.)

(3) Lot length – minimum of fifty feet (50 ft.)

(Subparagraph B – Ord. 666-21 – May 21 Supp.)

C. Minimum Building Setback Requirements are:

(1) Fifteen feet (15 ft.) from a public right-of-way;

(2) Fifteen feet (15 ft.) from the recreational vehicle lot line abutting on an interior access street;

(3) Fifteen feet (15 ft.) from any park boundary.

3. Interior Park Access Ways. Streets, driveways and other access ways within a recreational vehicle park shall be constructed and maintained by the owner and/or developer of the park in accordance with the standards provided by the City of Guttenberg. Interior park access ways shall not be dedicated as a public right-of-way unless otherwise approved or required by the City Council. Interior park streets shall observe the following minimums:

A. Cul-de-Sacs. Cul-de-sac streets and streets designated to have one end permanently closed should have a minimum turning radius of fifty feet (50′).

B. Parking Requirements. A minimum of one off-street parking space shall be provided adjacent to, or conveniently near, each park lot.

C. Street Lighting. Adequate street lighting shall be provided. Installation of all street lighting shall be in accordance with standards provided by the City of Guttenberg.

D. Landscaping, Buffering and Screening. A specific landscaping plan for the recreational vehicle park shall be submitted as part of the site plan. Landscaping material shall conform to and be installed in accordance with the site plan. The landscaping plan shall include open areas that are natural in character.

4. Utilities and Other Services. The construction and maintenance of all water, sewer, electrical, communication and miscellaneous (television cable, etc.) service lines shall be under the supervision of the department of utility agency having jurisdiction in accordance with all applicable State and local codes, policies and regulations. Fire

protection, hydrant location, fire equipment access, etc., shall be approved by the local Fire Chief.

5. Water Supply and Distribution System. Each recreational vehicle park shall be connected to the Guttenberg municipal system where available, with the appropriate backflow preventative device installed; individual water service connection shall be provided for each lot.

6. Sewage Disposal. The sewer lines of the park will be connected to a public sewer system, where available.

7. Electrical Distribution System. Each recreational vehicle park shall be provided with an electrical distribution system in accordance with the policies and specifications for installation and maintenance of the City of Guttenberg.

8. Solid Waste Disposal System. Solid waste collection stands shall be screened from view with appropriate landscaping and/or screening as indicated on the approved landscaping plan.

9. Construction Compliance Certificate. If the Board grants the applicant a special exception, the applicant shall secure a Construction Compliance Certificate from the Zoning Administrator prior to commencement of any work on the recreational vehicle park project.

A. Suspension Revocation. The administrative officer may suspend or revoke a certificate if the recreational vehicle park project construction does not proceed in compliance with the site plan and the Board of Adjustment approval.

B. Expiration. The Construction Compliance Certificate issued by the administrative officer shall expire by limitation and become null and void if the recreational vehicle park project work is not commenced within one hundred eighty (180) days from the date of the Certificate or if the project is suspended or abandoned at any time after the work is commenced for a period of ninety (90) days. Upon expiration the administrative officer shall revoke the Certificate.

C. Before the work can be recommenced, a new Construction Compliance Certificate may be obtained; but only upon payment of a new certificate fee and approval by the City Council, provided no changes have been made, or will be made in the original plans and specifications for the project; and provided further, that the project has not been dormant for a period exceeding one (1) year.

D. Notwithstanding the foregoing, any certificate holder may apply for an extension of time within which he may commence work under the certificate when he is unable to commence work within the time required by this section for good and satisfactory reasons. The application for extension shall be made to the City Council and the City Council may extend the time for action by the certificate holder for a period not exceeding one hundred eighty (180) days, upon written certification by the certificate holder showing that circumstances beyond the control of the certificate holder had prevented action from being taken. No certificate shall be extended more than once.

10. Performance Bond. The Board may require a performance bond or acceptable security to insure development of the project consistent with the site plan and the Board of Adjustment approval.

161.03 SITE PLAN REQUIRED. No recreational vehicle park special exception shall be considered by the Board of Adjustment until the applicant has submitted a site plan in conformity with the following:

1. Site plans shall be legible drawn to scale. Submit one electronic version and 10 hard copies.

2. A vicinity map showing the location and area of the proposed recreational vehicle park.

3. The boundary lines, area, and boundary and dimensions of the proposed park.

4. The location and dimensions, if any, of all existing streets (right of ways, easements, water, sewerage, drainage facilities, and other community facilities and utilities on or adjacent to the proposed park.

5. Proposed layout, including interior streets with dimensions, location and type of solid waste collection facilities, lot lines, dimensions, and areas of campsites, common open space and recreation areas, common parking areas and other common areas, recreation buildings, if any, and other permanent structures.

6. Plan for adequate drainage with street and lot plan designed to avoid drainage problems. Proposed layout shall consider terrain and its effect on adequate drainage away from proposed park sites and in the design of streets with channels or drainage structures to assure that ponding or other associated drainage problems will not occur.

7. If applicable, a statement regarding compliance with relative floodplain, wetland, and other local, State, and Federal regulations.

8. The requirements of Section 161.02 and other requirements as may be deemed necessary by the Zoning Board of Adjustment as a condition of the Special Exception.

9. Date of commencement and completion of recreational vehicle park project construction.

161.04 WAIVER. Where, due to topography or other special circumstances, where the requirements of this chapter would result in unnecessary hardship, the Board of Adjustment by a favorable vote of three-fourths (3/4ths) of all members of the Board, may waive requirements of this chapter. Any such waiver shall be by resolution and state the special circumstances supporting such waiver and that the waiver will promote the general welfare and best interests of the community.

(Chapter 161 – Ord. 563-12 – Sep. 12 Supp.)

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CHAPTER 162

TEMPORARY PORTABLE STORAGE CONTAINERS

162.01 Purpose
162.02 Definitions
162.03 Restrictions On On-Site Storage Containers on Residential Properties
162.04 Permit Required
162.05 Current Violations
162.06 Violations-Penalties

162.01 PURPOSE. The purpose of this chapter is to regulate the placement within the City of certain on-site storage containers that are designed and intended to be used for commercial storage, or for the transportation of goods or other cargo, in order to protect the public health, safety, and welfare, and promote aesthetics on residential properties in the City of Guttenberg, Clayton County, Iowa.

162.02 DEFINITIONS. For purposes of this chapter, the term "on-site storage container" shall mean:

1. Any container or vessel designed for or used in the packing, storage, shipping, movement or transportation of cargo, freight, goods, equipment, or commodities; and/or

2. Any container or vessel designed to be, or capable of being, mounted or moved by rail, truck, or ship by means of being mounted on a chassis or other transport device, including portable on-site storage containers, or units having similar characteristics; and/or

3. Any railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles, and similar pre-fabricated items originally built of purposes other than the storage of goods and materials.

162.03 RESTRICTIONS ON ON-SITE STORAGE CONTAINERS ON RESIDENTIAL PROPERTIES.

1. An on-site storage container shall not be considered to be an "accessory building" under Chapter 165.

2. No permanent on-site storage container shall be permitted in any residentially-zoned district of the City, or on any property within the City used for residential purposes.

3. Notwithstanding the provisions set forth in Subsection 1 on this section, the temporary placement of storage containers and/or portable on-site storage containers on residentially-zoned properties, or on properties the primary use of which are residential, for a limited purpose

of loading and unloading household contents shall be permitted for a period of time not to exceed fifteen (15) days within any one calendar year.

4. Notwithstanding the provisions set forth in Subsection 2 of this section, licensed and bonded contractors may use on-site storage containers for the temporary location of an office, or the temporary storage of equipment, and/or materials during construction which is taking place on the property where the cargo container is located.

162.04 PERMIT REQUIRED.

1. A building permit is required prior to placement of an on-site storage container. The proposed on-site storage container must be accessory to the permitted use of the property, and shall meet the setback requirements of the underlying zone.

2. In the event the on-site storage container is to be used by a licensed and bonded contractor for the temporary location of an office, or the temporary storage of equipment, and/or materials during construction which is taking place on the property where the cargo container is located, residential or otherwise, a special permit may be issued the City Manager for the time period required for the project.

3. Storage containers shall not be stacked above the height of a single container except within the industrial zone, and only in the rear yard of the property.

4. On-site storage containers shall be kept free of all alpha-numeric signage and writing other than to identify the owner of a leased storage container.

5. As a condition of placement, on-site storage containers may be required to be fenced or screened from abutting properties and/or right-of-ways pursuant to the provisions of the underlying zoning regulations.

6. On-site storage containers shall be in an approved designated area and on the same property as the principal use.

7. On-site storage containers shall not occupy off-street parking.

8. Materials stored within on-site storage containers are subject to inspection and approval by local and State fire officials.

9. Permit Fee. A permit fee, as set by resolution of the City Council, shall be imposed.

162.05 CURRENT VIOLATIONS. All owners of property within the City shall have fifteen (15) days from the effective date of the ordinance[†] codified in this chapter to bring properties which currently contain on-site storage containers that are in violation of the terms of this chapter, into full compliance.

162.06 VIOLATIONS - PENALTIES. A violation of the provisions of this chapter shall be deemed to be a municipal infraction pursuant to the Iowa Code Section 364.22, and subject to enforcement and remedial action as permitted thereunder.

(Ch. 162 – Ord. 691-22 – Sep. 22 Supp.)

[†] **EDITOR'S NOTE:** Chapter 162 was adopted by Ordinance No. 691-22 on September 12, 2022.

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CHAPTER 165

ZONING REGULATIONS

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165.01 TITLE. This chapter shall be known and cited as "The Zoning Ordinance of the City of Guttenberg."

165.02 PURPOSE. The Council deems it necessary to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of provisions of transportations, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the City; all in accordance with a comprehensive plan, and to that end to adopt this chapter, zoning and City and setting out regulations therefor.

165.03 DEFINITIONS. For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; and the word "shall" is mandatory and not directory.

1. "Accessory use or structure" means a use or structure subordinate to the principal use of a building and on the same lot or consolidated lot and serving a purpose customarily incidental to the use of the principal building use or land use. ***(Ord. 586-15)***

2. "Administrative Officer" means the individual designated by the City Council to administer the Zoning Ordinance. This person may also be referred to as the "Zoning Administrator."

3. "Agriculture" means the use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory use for treating and storing the produce, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. Agriculture shall not include commercial animal or poultry feeding in confined lots or buildings as defined herein.

4. "Alley" means a public thoroughfare, which affords only a secondary means of access to abutting property.

5. "Alterations, structural" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.

6. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three (3) or more such rooms or suites.

7. "Apartment house" means a building arranged, intended or designed to be occupied by three (3) or more families living independently of each other.

8. "Awning" means a sheet of canvas or other material stretched on a frame and generally used to keep the sun or rain off a storefront, window, doorway, or deck. ***(Ord. 645-19 – Nov. 19 Supp.)***

9. "Balcony" means a platform enclosed by a railing or balustrade projecting from the wall of a building, with access from an upper-floor window or door. ***(Ord. 645-19 – Nov. 19 Supp.)***

10. "Basement" means a story having part, but not more than one-half (1/2) its height below grade. A basement is counted as a story for the purpose of height regulations.

11. "Bed and breakfast/bath home" means a home occupation that provides one (1) to three (3) rooms (limited to two (2) persons or one (1) family unit/room) for occasional paying guests on an overnight basis for period not to exceed fourteen (14) days with breakfast or bath being available on premises at no additional cost. A bed and breakfast/bath home is allowable only in a building originally constructed as a one-family dwelling.

12. "Bed and breakfast/bath inn" means a tourist home that provides four (4) to twelve (12) rooms (limited to two (2) persons or one (1) family unit/room) for paying guests on an overnight basis for periods not

to exceed fourteen (14) days with breakfast/bath being available on premises at no additional cost. A bed and breakfast inn is allowable only in a building originally constructed as a one-family dwelling.

13. "Billboard" means outdoor advertising signs which advertise goods, products or services not necessarily sold on the premises on which the sign is located and are of three (3) main types.

A. Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper. This includes painted exterior walls with pictures, words, or logos.

B. Multi-prism sign, same as above, and alternating advertising messages on the one (1) display area.

C. Painted bulletins, which the advertiser's message is printed directly on the background of a wall-mounted or freestanding display area.

14. "Board" means the Zoning Board of Adjustment of the City of Guttenberg, Iowa.

15. "Boarding house" means a building other than a hotel where, for compensation and by arrangement, lodging and meals are provided for three (3) or more persons.

16. "Building" (structure) means anything constructed, erected or built the use of which requires more or less permanent location on ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including, but without limiting the generality of the foregoing, installations such as signs, billboards, radio towers and other facilities not designed for storage of property or occupancy by persons.

17. "Building, height of" means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

18. "Building line"- See "yard, front"; "yard, rear"; and "yard, side" (subsections 91, 92 and 93 of this section).

19. "Bulk station" means distributing stations commonly known as bulk or tank stations used for the storage and distribution of flammable liquids or liquefied petroleum products where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

20. "Business/commercial," when used in this chapter, refers to the engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices, recreational or amusement enterprises.

21. "Campground" means a parcel of land intended for the temporary occupancy of tents. Campgrounds are permitted only in Recreational Vehicle Parks. ***(Ord. 563-12)***

22. "Canopy" means a projection from a building that resembles a roof and may or may not host a deck upon it. ***(Ord. 645-19 – Nov. 19 Supp.)***

23. "Carport" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purpose of this chapter, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

24. "Cellar" means a story having more than one-half (1/2) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

25. "Clinics" means a building or buildings used by physicians, lawyers, dentists, osteopaths, chiropractors, and all professions for outpatient care of persons requiring such professional services; does not include veterinary clinics.

26. "Commercial animal or poultry feeding" means the feeding of livestock, poultry or other animals in confined feedlots, dry lots, pens, cages or buildings as a commercial enterprise:

A. When not in conjunction with a farming operation.

B. When feeding more than one thousand (1,000) head of livestock or five thousand (5,000) chickens, turkeys, or laying hens.

27. "Commission" means the Planning and Zoning Commission of the City of Guttenberg, Iowa.

28. "Condominium" means a residential or commercial building consisting of multiple units, each under individual ownership of the space contained within each unit and co-ownership of the remaining real property by the individual owners as tenants in common, subject to certain joint agreements and regulations.

29. "Day nursery, nursery school, or day care" (public) means any agency (for-profit and not-for-profit) institution, establishment, or place which provides supplemental parental care and/or educational work,

other than lodging overnight, for seven (7) or more children of preschool age for compensation.

30. "District" means a section or sections of Guttenberg within which the regulations governing the use of buildings and premises or the height and area of building and premises are uniform.

31. "Drive-in restaurant" means any place or premises used for the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

32. "Dwelling" means any building or portion thereof which is designed for and used exclusively for residential purposes.

33. "Dwelling, multiple" means a building designed for or occupied exclusively by more than two (2) families, excluding condominiums, townhouses/row houses.

34. "Dwelling, single-family" means a building designed for or occupied by one (1) family.

35. "Dwelling, two-family" means a building designed for or occupied by two (2) families.

36. "Dwelling unit" means one (1) room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or for rental or lease on a weekly, monthly or other basis, and physically separated from any other rooms or dwelling units which may be located in the same structure, and containing independent cooking and sleeping facilities.

37. "Family" means one (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four (4) persons.

38. "Farm" means an area of ten (10) acres or more which is used for the growing of the usual farm products such as vegetables, fruits, trees and grain, and their storage on the area, as well as for the raising thereof of the usual farm poultry and farm animals. The term "farming" including the operating of such an area for one (1) or more of the above uses including the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities; and provided further that farming does not include the feeding of garbage or offal to swine or other animals.

39. "Farmstead dwelling" means a dwelling located on a farm and occupied by a person or family employed fully or partially in the agricultural pursuits of the farm on which it is located.

40. "Floor area" means the square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. Floor area shall not include porches, garages or space in a basement or cellar, which is used for storage or incidental use.

41. "Frontage" means all the property on one side of a street between two (2) intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

42. "Garage, private" means an accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the owners or occupants of the building to which it is accessory. Not more than one of the vehicles may be used as a commercial vehicle. ***(Ord. # 462-03)***

43. "Garage, public" means a building or portion thereof other than a private or storage garage designed or used for equipping, servicing, repairing, hiring, selling or storing motor-driven vehicles.

44. "Garage, storage" means any building or premises, including a mini-storage garage, used for storing motor-driven vehicles (other than commercial vehicles), recreational vehicles and trailers, boats, furniture, or other miscellaneous personal property, excluding such things as automobile fuels, and oils or other hazardous or volatile substances, pursuant to previous arrangements.

45. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building. Except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

46. "Ground mount" means a solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses. ***(Ord. 643-19 – Nov. 19 Supp.)***

47. "Group housing" means a building or place where lodging or boarding is provided, for compensation or not, for five (5) or more individuals, but not open to transient guests as would be found in a motel/hotel. Normally associated with a charitable organization or governmental financed program to assist unique groups of people.

48. "Hazardous waste" means waste designed as hazardous by the United States Environmental Agency or appropriate state agency.

49. "Height of a building" means the vertical distance from the grade of the highest point to the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

50. "Home occupation" means an occupation or a profession which:

A. Is customarily carried on in dwelling unit; and

B. Is carried on by a member of the family residing in the dwelling unit; and

C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and

D. Does not employ more than one (1) person outside the resident family; and

E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one (1) exterior sign mounted flush with the face of the building, which sign shall not exceed six (6) square feet in area; and

F. Does not occupy more than fifty percent (50%) of the area of one floor of the dwelling unit; and

G. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

51. "Home occupation, farmstead" means an occupation customarily engaged in on a farm, as a supplementary source of income, which:

A. Is clearly incidental and secondary to the operation of the farm; and

B. Is carried on by a member of the family residing in the farmstead dwelling; and

C. Does not employ more than one (1) person outside the resident family; and

D. Is conducted within or adjacent to the farmstead dwelling or the customary farm outbuildings; and

E. Has no exterior displays, or storage of materials visible from the public road, or other exterior indication or variation from the agricultural character of the farm; and

F. Has not more than one (1) sign, acknowledging the product or service available, which sign shall not exceed twelve (12) square feet in area; and

G. Produces no offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical interference detectable within the limits of the nearest neighboring farmstead or dwelling.

52. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.

53. "Institution" means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.

54. "Junk or salvage yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, or packed, disassembled or handled, including the dismantling or "wrecking" or automobiles or other vehicles or machinery, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such activities are conducted entirely within a completely enclosed building. The presence of any lot of record of two (2) or more vehicles without current registration which for a period of thirty (30) days, have not been capable of operation under their own power, and from which parts have been removed from reuse, salvage, or sale, shall constitute prima facie evidence of a junk yard.

55. "Kennel/stables" means a building or structure used or intended to be used for the housing of horses and/or small animals. Riding instruction may be given in connection with the stable or riding academy.

56. "Loading space" means a space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having minimum dimensions of twelve by thirty-five feet (12'x 35') and vertical clearance of at least fourteen (14) feet.

57. "Lot" means a parcel of land occupied or intended for occupancy by one (1) main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by the lot lines.

58. "Lot, corner" means a lot abutting upon two (2) or more streets at their intersections.

59. "Lot, depth of" means the mean horizontal distance between the front and rear lot lines.

60. "Lot, double frontage" means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

61. "Lot, interior" means a lot other than a corner lot.

62. "Lot of record" means a lot which is a part of a subdivision, that plat of which has been recorded in the office of the County Recorder of Clayton County, Iowa.

63. "Consolidated lots" means two adjacent and contiguous residential lots located in the Single Family Residential Districts R-1 and R-2 and in the Mixed Residential District R-3 may be consolidated by the Board of Adjustment as special exception. The term, adjacent lots, shall mean two residential lots sharing a lot line. Upon consolidation, the owner shall record with the County Recorder a lot consolidation covenant in a form approved by the City, and thereafter the consolidated lot shall not be sub-divided; except upon authorization by the City Council by Resolution, but only in order to accommodate a new principal structure to be built on the residential lot where the accessory structure is located. ***(Ord. 577-14)***

64. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

65. "Manufactured home" means a structure, transportable in one (1) or more sections, which in the traveling mode, is eight (8) feet or more in width or forty (40) body feet or more in length, or when on the site is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

66. "Mobile home" means a vehicle used, or so originally constructed as to permit being used, as conveyance upon the public street or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling, or sleeping places for one(1) or more persons; providing further that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which is capable of being moved by its own power, towed or transported by another vehicle. This definition shall also include and apply to such

vehicles or structures that are located on a permanent or temporary foundation, but shall not include mobile homes converted to real estate as defined herein.

67. "Mobile home converted to real estate" means an unencumbered mobile home, which has been attached to a permanent foundation on real estate owned by the mobile home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the assessor, the mobile home title, registration and license plates collected from the owner and the property entered on the tax rolls of Clayton County, Iowa.

68. "Mobile home park" means any site, lot, field or tract of land upon which two (2) or more occupied mobile homes are harbored either free of charge or for revenue purposes and shall include any building, structure, vehicle or enclosure intended for use as part of the equipment of such mobile home park.

69. "Mobile home subdivision" means a subdivision created for the purpose of and restricted to the sale or lease of individual lot for occupancy by independent mobile homes or mobile homes converted to real estate and having public streets, utilities and other public facilities installation approved by the Council in accordance with the subdivision regulations of the City.

70. "Nonconforming use" means any building or land lawfully used at the time of the effective date of this chapter, which does not conform after the effective date of this chapter with the use regulations of the District in which it is situated.

71. "Nuisance" means any noise, odor, vibration, smoke, air pollution, liquid or solid waste, glare, heat, or dust condition which creates an irritation, annoyance, or health hazard.

72. "Nursing home" means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, shelter and care, for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

73. "Owner" means the person or persons who hold the fee simple title to the property and the person or persons who have acquired any interest in the property by contract or purchase or otherwise.

74. "Parking space" means a surfaced area, enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than one hundred eighty (180) square feet exclusive of

driveways, permanently reserved for the temporary storage of one (1) automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

75. "Place" means any open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.

76. "Premises" means the land together with any buildings or structure located thereon.

77. "Public housing" means public housing developments, rest, nursing and convalescent homes; homes for orphans and aged, provided that such use is compatible with surrounding development and that adequate off-street parking be provided.

78. "Recreational vehicle (RV)" means a vehicular unit designed for recreational camping or travel use under its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, and camping trailer. ***(Ord. 563-12)***

79. "Recreational vehicle park" means a parcel of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers. A recreational vehicle park may include or be a campground. ***(Ord. 563-12)***

80. "Recycled materials" include, but are not limited to:

A. Newspapers

B. Paper (brown, high quality white, computer)

C. Corrugated cardboard

D. Glass bottles

E. Certain types of plastics and plastic containers

F. Scrap metals, such as tin cans, aluminum cans and foil

G. Styrofoam products

81. "Recycling" means the collection of used materials such as newspapers, cans, corrugated cardboard, etc., and the conversion thereof into new products by reprocessing or remanufacturing.

82. "Recycling drop boxes" means containers designed for collection of recyclable materials, no processing allowed. Restrictions:

A. Industrial and commercial zones

B. All collected items must be fully contained within drop box

C. Sign on drop box to identify purpose

83. "Recycling plant/community recycling center" means a totally enclosed building within which the receipt, separation, storage, conversion, bailing, and/or processing of paper, iron, metal, glass, newspaper, and other non-biodegradable recyclable materials can occur for the purpose of reutilization of such materials.

A. All outdoor storage of salvageable materials shall be contained within bins, or pallets or located on a paved area.

B. All storage areas shall be enclosed by view obscuring walls, fences, or buildings. No storage facilities shall be seen from a public right-of-way or from any residential land use.

C. All separation, sorting, processing, baling, or other activities shall occur entirely within an enclosed building.

D. The ambient noise level shall not be increased as measure at any property line.

E. The facility and signage shall unobtrusive and compatible with the area surrounding the subject site.

F. No garbage or food wastes shall be permitted at the site. If any incidental amounts of biodegradable refuse material enter the site, it shall be removed by the next working day or within forty-eight (48) hours of entering the site, whichever is sooner.

G. Liquid wastes, hazardous and biodegradable materials, including, but not limited to, food, beverages, drugs, cosmetics, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides and other similar materials shall not be permitted on the site.

H. The owner/operator of the salvage site shall prevent or eliminate immediately any nuisance created by dust, odors, blowing material, litter, ponding waste, noise or other nuisance.

I. All building and structures within the site shall be rodent-proofed and any rodent infestation shall be controlled immediately.

J. Any infestation or accumulation of flies or other insects of public health significance shall be immediately controlled.

K. In anticipation of emergency situations (breakdown of facilities, power failure, landfill closure), provisions are made to

ensure non-salvable waste materials will be properly contained and that no continuous storage be allowed.

L. Any representative of a regulatory governmental agency shall be permitted access to the recycling plant at any reasonable time for the purpose of obtaining information or inspecting operations.

M. Burning of wastes shall be prohibited.

N. Fire protection and prevention facilities, including, but not limited to, fire sprinklers, shall be provided in a manner subject to approval of the Fire Marshal.

O. A detailed site and operations plan, including, but not limited to, traffic routes, shall be subject to approval of the Planning Commission.

P. Violation of any condition or any terms set forth shall result in the immediate closing of the recycling plant until such time as the violations are corrected to the satisfaction of the applicable regulatory agency.

Q. A recycling plant shall not be located on a property located within four hundred feet (400') of any R structure or any property containing a public or institutional land use (for example, a church, school, park or library).

R. Restrictions: Industrial zone only.

84. "Roof mount" means a solar energy system mounted on a rack that is fastened to or ballasted on a building rood. Roof-mount systems are accessory to the principal use. ***(Ord. 643-19 – Nov. 19 Supp.)***

85. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:

A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants or premises, or other identification of premises not having commercial connotations.

B. Flags and insignia of any government, except when displayed in connection with commercial promotion.

C. Legal notices, identification, information or directional signs erected or required by governmental bodies.

D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

E. Community Identification/Public Sign. Any sign intended primarily to promote items of general interest to the community. Such sign shall be permitted in any district without obtaining a permit.

86. "Solar collector" means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. ***(Ord. 643-19 – Nov. 19 Supp.)***

87. "Solar farm" means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located. ***(Ord. 643-19 – Nov. 19 Supp.)***

88. "Solar garden" means a commercial solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing or located offsite from the location of the solar energy system. A community solar system may be either an accessory or a principal use. ***(Ord. 643-19 – Nov. 19 Supp.)***

89. "Solid waste transfer station" means a transfer station is an enclosed building, which serves as a receiving station for solid waste or recyclables delivered by commercial garbage haulers and/or the general public. The transfer station is an interim storage and transfer point between the collection rouge and a disposal site. A solid waste transfer station may provide for processing and recycling of solid waste. Restrictions:

A. Industrial Zone

B. No exposed materials

C. Nothing to constitute a nuisance

90. "Special exceptions" means a use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as special exceptions if specific provision for such special exception is made in this zoning ordinance.

91. "Story" means that portion of a building other than a cellar included between the surface of any floor and the surface of the floor next above it or; if there is no floor above it, then the space between the floor and the ceiling next above it.

92. "Story, half" means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3') feet above the floor of such story, except that any particular story used for residence purposes, other than for a janitor or caretaker or his/her family, or by a family occupying the floor immediately below it, shall be deemed a full story.

93. "Street" means a public or private thoroughfare, which affords the principal means of access to abutting property.

94. "Street line" means the right-of-way of a street.

95. "Structure" (building) means anything constructed, erected or built the use of which requires more or less permanent location of the ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, including, but without limiting the generality of the foregoing, installations such as sighs, billboards, radio towers and other facilities not designed for storage of property or occupancy by persons.

96. "Townhouses/rowhouses" means multiple family dwellings with each maintaining private ingress and egress, attached to its own foundation with no independent dwelling above or below each unit, and which is further attached to other single family dwelling by a common or party wall.

97. "Variance" means a relation of the terms of the zoning ordinance where such relation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

98. "Yard" means an open space between a building and the adjoining lot lines occupied and unobstructed by any portion of a structure from thirty inches (30") above the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the

depth of a rear yard, the minimum horizontal distance between the lot line and the main building or any projection thereof shall be used. Notwithstanding anything contrary herein, if the zero lot line townhouse concept is utilized, the real property common area owned by the association of zero lot line townhouse owners shall be considered when calculating the front, rear, and side yard requirements. (***Ord. 530-09)***

99. "Yard, front" means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projection thereof, other than the projection of the usual uncovered steps, uncovered balconies or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front his building on the street parallel to the lot line having the greater dimension.

100. "Yard, rear" means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof, other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

101. "Yard, side" means a yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

102. "Zero lot line townhouses" means any series of two (2), but not more than four (4), laterally attached single-family dwellings in which each dwelling has separate access, utility services, and in which no dwelling is placed on top of another. Each zero lot line townhouse shall occupy its own lot, which shall extend to and be congruent with the exterior foundation of the townhouse. The owner of the zero lot line townhouse shall hold fee simple title to the zero lot line townhouse lot. The contiguous zero lot line townhouse lots shall be located on a common area real estate parcel as described at Section 128.10.

165.04 ESTABLISHMENT OF DISRICTS. The City is hereby divided into districts, which shall be designated as follows:

A-1 Limited Agricultural
R-1 Single-Family Residential
R-2 Single-Family Residential
R-3 Mixed Residential
R-4 Mobile Home Park
C-1 Highway Commercial
C-2 General Retail and Office District ***(Ord. 652-20 – Feb. 20 Supp.)***
M-1 Industrial Park
M-2 Industrial
F-1 Flood Plain

The locations and boundaries of these districts are shown on the Official Zoning Map.

165.05 ADOPTION OF OFFICIAL ZONING MAP. The Official Zoning Map and the explanatory material thereon are hereby adopted by reference and declared to be a part of this chapter.

165.06 IDENTIFICATION OF OFFICIAL ZONING MAP. The Official Zoning Map shall be identified by the signature of the Mayor and attested to by the City Clerk under the following statement:

> *This is to certify that this is the Official Zoning Map referred to in Section 165.06 of the Zoning Regulations of Guttenberg, Iowa, as adopted* _____.

The Official Zoning Map shall be on file in the City office and shall be the final authority as to the current zoning status of land, buildings and other structures in the City.

165.07 CHANGES IN OFFICIAL ZONING MAP. No changes in the Official Zoning Map shall be made, except as may be required by amendments to this chapter under Section 165.45 herein. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, approving such change in the Official Zoning Map. Any unauthorized change of any kind whatsoever in the Official Zoning Map by any person or persons shall constitute a violation of this chapter and punishable as provided in Section 165.26 of this chapter.

165.08 AMENDING ZONING MAP. Amendments to the Official Zoning Map shall be made in the form of an ordinance giving a legal description of the

land involved and the name of the district into which it is to be placed and if removed from a district, the name of such district. A copy of such amending ordinance shall be attached to the official map and noted on the map. At not more than five-year intervals such amendments shall be incorporated into the map and, if necessary for clarity, the map may be redrawn, correcting errors or omissions and the new map certified as the new Official Zoning Map as of the date of certification by the Mayor and Clerk, but no correction or addition shall cause a change in the original map, except as amended by the Council.

165.09 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of street, highways or alleys shall be construed to follow such centerlines.

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following township lines or section lines shall be construed as following said township lines or section lines.

4. Boundaries indicated as following shore lines of streams or other bodies of water shall be construed to follow such shore lines, and in the event of change in the shore lines; boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines, and in the event of change in the centerline shall be construed as moving with the actual centerlines.

5. Boundaries indicated as parallel to or extensions of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

6. Where physical or cultural features existing on the ground are at variance with these shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.

7. Where a district boundary divides a lot of record which was in single ownership at the time of the effective date of this chapter, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot into the remaining portion of

the lot, so long as such extension does not extend more than fifty feet (50') feet beyond the district boundary.

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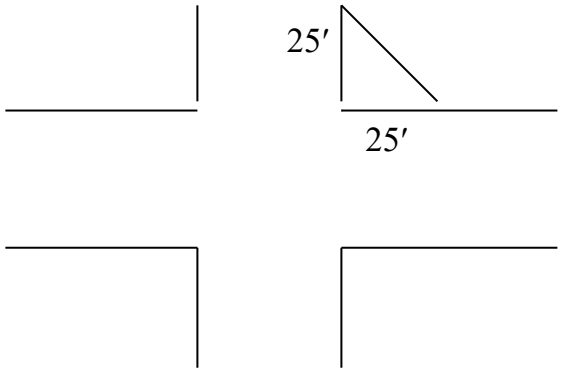
165.10 SCHEDULES OF DISTRICT REGULATIONS. The schedules of district regulations[†] are hereby adopted and declared to be a part of this chapter:

A-1	Limited Agricultural	
R-1	Single-Family Residential	
R-2	Single-Family Residential	
R-3	Mixed Residential	
R-4	Mobile Home Park	
C-1	Highway Commercial	
C-1(A)	Highway Commercial – District A	***(Ord. 732-25 – Dec. 25 Supp.)***
C-2	General Retail and Office District	***(Ord. 652-20 – Feb. 20 Supp.)***
M-1	Industrial Park	
M-2	Industrial	
F-1	Flood Plain	
M-1(A)	Industrial Park – District A	***(Ord. 637-19 – Aug. 19 Supp.)***

165.11 SUPPLEMENTARY DISTRICT REGULATIONS. Subject to Section 165.10, the following provisions, regulations, or exceptions shall apply equally to all districts, except as hereinafter provided:

1. Visibility at Intersection. On a corner lot in any district, except in the C-2 General Office and Retail District, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersecting of the right-of-way lines, and measured along the right-of-way lines.



[†] **EDITOR'S NOTE:** The Schedules of District Regulations are included at the end of this chapter.

2. Accessory Building/Structure. No accessory building/structure shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five (5) feet of any main building or within five (5) feet of a rear lot line.

3. More Than One Principal Structure on a Lot. In any district, more than one principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

4. Height Regulation Exception. The height limitations contained in the schedules of district regulations do not apply to grain storage bins, grain elevators, feed mills, or to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housings or other structures placed above the roof level and not intended for human occupancy.

5. Use of Public Right-of-Way. No portion of the public road, street or alley rights-of-way shall be used or occupied by any abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

6. Proposed Use Not Covered in Chapter. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the commission for a recommendation as to the proper district in which such use should be permitted and the chapter amended as provided in Section 165.44 before a permit is issued for such proposed use.

7. Buildings to Have Access. Every building hereafter erected or structurally altered, shall be on a lot or parcel having a frontage on a public street or road.

8. Mobile Homes or Trailers. Mobile homes occupied, as a permanent or temporary place of residence shall be located only in an approved mobile home park.

9. Hedges and Fences. Fences and hedges shall not exceed four (4) feet in height in any required front yard (from property line, i.e. 15 feet in R-2; 30 feet in R-1), subject to the further restriction of subsection 1 above.

10. Agricultural Uses. Any vacant parcel of land regardless of size in any district may be used for agricultural purposes, the raising of feed and grain crops, fruit or vegetables, provided that no livestock, poultry or other animals other than customary household pets shall be kept on land or in confinement within three hundred (300) feet of any dwelling unit other than that of the owner.

11. Off-Street Parking. Off-street parking may be located within any required yard in any C or M district, provided such space is fifty (50) feet or more away from any R district. All required off-street parking areas for more than four vehicles shall be surfaced with an asphalt or cement pavement. When located within fifty (50) feet of any of any R district, all parking spaces shall be set back three (3) feet from properties zoned residential. Fifteen percent (15%) of the property proposed to be used for nonresidential parking purposes that is within fifty (50) feet of the residential district shall be maintained as "green space" and shall not be used for the storage of snow or other purposes. The fifteen percent (15%) green space buffer shall be located adjacent to the residential properties, streets, and sidewalks within the fifty (50) foot area adjacent to the residential properties. No off-street parking is permitted in the front yard or within three (3) feet of any side lot line on any lot zoned residential, except upon a duly authorized, regularly constructed driveway. Residential driveways shall not exceed twenty-one (21) feet in width in any required front yard. A construction compliance certificate shall be required prior to the installation of or any preparation work for any parking lot or new driveway. ***(Ord. #488-06)***

165.12 APPLICATION OF DISTRICT REGULATIONS. Subject to Section 165.10, the regulations and restrictions of this chapter shall apply as follows:

1. Regulations to Be Uniformly Applied. The regulations set by this chapter shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.

2. All Uses and Structures to Conform. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

3. Height, Density or Yards Shall Not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner contrary to the provisions of this chapter.

4. Separate Yards, Open Space and Off-Street Parking Required. No part of a yard, other than open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open

space or off-street parking or loading space similarly required for any other building.

5. Minimum Yards and Lot Areas May Not Be Reduced. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

6. New Areas. All territory which may hereafter become a part of the incorporated area of the City through annexation shall be classified in the A-1 Limited Agricultural District until otherwise classified, provided that the commission may recommend the appropriate district classification prior to such territory becoming a part of the City and upon holding of a public hearing and approval by the Council the territory upon becoming part of the community may immediately be so classified.

165.13 NONCONFORMITIES. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures, which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment.

165.14 NONCONFORMITIES MAY CONTINUE. Subject to Section 165.10 it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

165.15 NONCONFORMITIES MAY NOT BE ENLARGED. A nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after the date of _____ by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

165.16 NONCONFORMITIES AT ADOPTION. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding,

such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

165.17 NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or bother that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width of the lot, or both, shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this chapter.

165.18 NONCONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged nor increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the, effective date of adoption or amendment of this chapter.

3. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

165.19 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued for as long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way, which increases its nonconformity.

2. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

165.20 NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building, which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure or structures and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require appropriate conditions and safeguards in accord with the provisions of this chapter.

4. Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure or structure and premises in combination is discontinued for six consecutive months or for 18 months during any three-year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

165.21 REPAIRS AND MAINTENANCE. Nothing in this chapter shall prohibit the maintenance and repair of nonconforming structures to keep such a structure in sound and safe condition, provided that no structural enlargement, extension, alteration or change shall be made to increase the degree of nonconformity. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

165.22 USES UNDER EXCEPTION PROVISIONS NOT NONCONFORMING USES. Any uses for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

165.23 ADMINISTRATION AND ENFORCEMENT. An administrative officer designated by the Council shall administer and enforce this chapter. The person may be provided with the assistance of such other persons as the Council may direct. If the Administrative Officer shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

165.24 APPEALS FROM DECISION OF ADMINISTRATIVE OFFICER. Appeals from any decision of the Administrative Officer may be made to the Board of Adjustment as provided in Chapter 126.

165.25 INTERPRETATION OF PROVISIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion and protection of the public health, safety and general welfare. Wherever the requirements of this chapter are at

variance with the requirements of any other lawfully adopted rules, regulations, ordinance, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

165.26 VIOLATION AND PENALITIES. Any person or entity who shall violate or fail to comply with the provisions of this ordinance shall be guilty of a simple misdemeanor and upon conviction shall be subject to a fine of not more than the maximum fine and term of imprisonment for a single misdemeanor under Section 903.1(1)(a) of the *Code of Iowa*. ***(Ord. 577-14)***

165.27 SEPARATE OFFENSES MAY BE CHARGED. The owners or tenant of any building, structure, land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

165.28 OTHER REMEDIES. Nothing herein contained shall prevent the Council or its agents from taking other lawful action as is necessary to prevent or remedy any violation.

165.29 CONSTRUCTION COMPLIANCE CERTIFICATE. Subsequent to the adoption of this chapter, a construction compliance certificate shall be obtained from the Administrative Officer before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height or floor area, or remodeled to increase the number of dwelling units or accommodate a change in use of the building and/or premises or part thereof. The construction compliance certificate shall state that the proposed construction complies with all provisions of this chapter, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this chapter. Any maintenance item such as a new roof, windows, siding, doors, and other repair items, which do not enlarge the structure, shall not require a construction compliance certificate. The construction of a new or the maintenance of old driveways shall not require a construction compliance certificate.

165.30 APPLICATION FOR COMPLIANCE CERTIFICATE. Applications for a compliance certificate shall be made prior to beginning construction on fully completed application forms obtained from the Administrative Officer, and accompanied by such plans and information necessary to determine that the proposed construction complies with all applicable provisions of this chapter. The signature of the applicant on the compliance certificate shall certify that the new occupancy complies with all provisions of this chapter, and no subsequent modifications shall be made to the occupancy, use, method or operation that would be in violation of this chapter.

165.31 FEES. The Administrative Officer is directed to issue a construction compliance certificate as required by this chapter for proposed construction, reconstruction or alteration which complies with all provisions contained herein and to charge a fee as follows:

Valuation	Fee
$0 - $50,000	$50.00
$50,001.00 - $100,000.00	$100.00
$100,001.00 and over	$150.00

There shall be no fees charged to the United States Government, the State of Iowa, or any political subdivision thereof. All fees as are required shall be paid to the Administrative Officer, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the general fund of the City. Any zoning permit, under which no construction work has been commenced within six (6) months after the date of issue of said permit or under which the proposed construction, reconstruction or alteration has not been completed within two (2) years of the date of issue, shall expire by limitation; and no work or operation shall take place under such permit after such expiration. A zoning permit may be once extended for a period not exceeding six (6) months by the Zoning Enforcement Officer.

Work commencing before permit issuance – penalty fees. Any person who commences any construction, reconstruction, or alteration on a building or structure before obtaining the necessary permit may be subject to a fee in addition to the required permit fees. A penalty fee equal to the amount of the permit fee may be added for any work that commences prior to permit approval, i.e., the permit fee may be doubled for such work that occurs prior to permit issuance. Additional fees may also be charged for actual costs of inspections, project research, site visits, and meetings required to obtain Code compliance prior to the point of actual permit approval. Such penalties do not prevent the City from also issuing separate municipal infraction citations for each violation of this section.

(Section 165.31 – Ord. 695-22 – Oct. 22 Supp.)

165.32 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby established. The board shall consist of five (5) members to be appointed by the Council for a term of five (5) years except that when the board shall first be created one member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member.

165.33 ELECTION OF CHAIRPERSON. The Board shall annually elect its own chairman at the first meeting on or after January 1 of each year. Such chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of three (3) members shall be necessary to constitute a quorum. The concurring vote of the three (3) members shall be necessary on all matters upon which it is required to pass under the provisions of this chapter.

165.34 PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairman and/or City Manager at such other times as the Board may determine. The chairman or in his absence, the acting chairman, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the board.

165.35 HEARINGS, APPEALS AND NOTICE. Appeals of the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by a decision of the Administrative Officer. Such appeals shall be taken within a reasonable time not to exceed thirty days by filing with the Administrative Officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

165.36 NOTICE. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

165.37 APPEAL FEE. A fee of one hundred twenty-five dollars ($125.00) shall be paid to the Administrative Officer at the time the notice of appeal is filed, which the Administrative Officer shall forthwith pay over to the credit of the general fund of the City. ***(Ord. 604-16)***

165.38 STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer from whom the appeal is taken certifies to the board after the notice of appeal is filed

with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.

165.39 BOARD OF ADJUSTMENT – POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Administrative Officer in the enforcement of this chapter.

2. Special Exceptions; Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. Special exceptions shall not be granted by the board unless and until an administrative fee of one hundred twenty-five dollars ($125.00) has been paid, and:

A. A written application for a special exception has been submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested, and

B. Notice shall have been given at least four days in advance of the public hearing on said application for the special exception by publication in a newspaper of general circulation in the City, and

C. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or attorney, and

D. The board shall have made a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and the board shall have determined that the granting of the special exception will not adversely affect the public interest. In granting any special exception, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the

special exception is granted shall be deemed a violation of this chapter and punishable under Chapter 165. The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

E. The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.

3. Variances; Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the board unless and until, an administrative fee of one hundred twenty-five dollars ($125.00) has been paid, and:

A. A written application for a variance shall have been submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district, and

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of right commonly enjoyed by other properties in the same district under the terms of this chapter, and

(3) That the special conditions and circumstances do not result from the action or actions of the applicant, and

(4) That granting the variance requested would not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance, and

(5) The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.

B. Notice of public hearing shall have been given as in Section 165.39(2)(B) above, and

C. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or by attorney, and

D. The board shall have made findings that the requirements of Section 165.39(3)(A) have been met by the applicant for a variance, and

E. The board shall further have made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure, and

F. The board shall further have made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

165.40 SOLAR ACCESS EASEMENTS. To receive and act upon applications for solar access easements in conformity with the provisions of Chapter 564A *Code of Iowa*. Where any provisions of Chapter 564A *Code of Iowa* conflict with any provisions contained elsewhere in this Chapter 165, the provisions of Chapter 564A *Code of Iowa* shall control.

165.41 CONDITIONS OF VARIANCE. In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Chapter 165.26. Under no circumstances shall the board grant a variance to allow a use now permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.42 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the board may so long as such action is in conformity with the terms of this chapter reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

165.43 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons or any board, taxpayer, department, board or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the board by a court of record in the manner provided by the laws of the state and particularly by Chapter 414, *Code of Iowa*.

165.44 CHANGES AND AMENDMENTS. The regulations imposed and the districts created by this chapter may be amended from time to time by the Council, but no such amendment shall be made without public hearing before said Council and without a report made upon the amendment by the Planning and Zoning Commission. At least four (4) days' notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City, however in no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice. In case the Commission does not approve the change, or in the case of a written protest filed with the Council against a change in district boundaries signed by the owners of twenty percent (20%) or more of the property which is located within two hundred feed (200') of the exterior boundaries of the property for which the change or repeal is proposed, such amendment shall not be passed except by the favorable vote of three-fourths of all the members of the Council.

(Section 165.44 – Ord. 740-26 – Jan. 26 Supp.)

165.45 STYLE OF AMENDMENT. Amendments, supplements, or changes of the boundaries of districts as shown on the Official Zoning Map shall be made by an ordinance amending the zoning ordinance, shall refer to the Official Zoning Map, and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the City Clerk as other ordinances and the Official Zoning Map changed as provided in Section 165.07. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The Official Zoning Map, as amended, shall be the final authority to the current zoning status of land and water areas, buildings, and other structures in the City.

165.46 APPLICATION FOR CHANGE OF ZONING DISTRICT BOUNDARIES. Any person may submit to the Council, an application requesting a change in the zoning district boundaries as shown on the Official Zoning Map.

1. Such application shall be filed with the Administrative Officer accompanied by a fee of one hundred twenty five dollars ($125.00) and shall contain the following information.

    A. The legal description and local address of the property, and

B. The present zoning classification and the zoning classification requested for the property, and

C. The existing use and proposed use of the property, and

D. The names and addresses of the owners of all property within two hundred feet (200') of the exterior boundaries of the property for which the change is requested, and

E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid, and

F. A plat showing the locations, dimensions and use of the applicant's property and all property within two hundred feet (200') of the exterior boundaries thereof, including streets, alleys, railroads and other physical features.

2. Upon receipt of the application by the Administrative Officer a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:

A. Whether or not the current district classification of the property to be rezoned is valid, and

B. Whether there is a need for additional land zoned for the purpose requested, and

C. Whether the proposed change is consistent with the current land use plan, considering such factors as:

(1) Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area, and

(2) Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity, and

D. Whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

3. The Commission shall report its determinations and recommendations to the Council within thirty (30) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. The Council shall then call a public hearing as provided in Chapter 165.

165.47 BLUFF PROTECTION AREA.

1. Purpose and Intent. To limit the process of erosion, protect the ground water, promote safe locations to build, protect sensitive natural features, and preserve the scenic qualities of the bluff.

2. Definitions.

A. Bluff. A topographic feature such as a hill, cliff or embankment with an average slope of forty five (45) percent or greater with a vertical rise or drop of fifty (50) feet or greater.

B. Bluff Protection Area. All land located within fifty (50) feet measured horizontally beyond the highest point of the top of the bluff.

C. Top of Bluff. The point on a bluff where there is, as visually observed a clearly identifiable break in the slope from steeper to gentler slope above. If no break in the slope is apparent or if there is disagreement in the breaking point, the top of the bluff shall be the highest end of a fifty (50) foot segment with an average slope of forty five (45) percent or greater.

D. Selective Cutting. The removal of single, scattered trees, provided a continuous tree cover is maintained.

E. Steep Slopes. Land where agricultural activity or development is either not recommended or poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve percent (12%), as measured over a horizontal distance of fifty (50) feet, that are not bluffs.

3. District Application.

A. Platted building lots recorded prior to the final passage of this ordinance are exempt from complying with the Bluff Protection Area requirements for structural construction only if it is such that this section creates a non-buildable lot but all other provisions of the Bluff Protection Area shall apply.

B. The Zoning Administrator will review all preliminary site plans and determine whether the Bluff Protection Area regulations may apply.

4. Boundaries. The boundaries of the Bluff Protection Area shall be defined as those lots in the City which contain bluffs and/or steep slopes.

5. Development Regulations.

A. No structure may be constructed beyond the bluff line. No single-family homes, multiple family dwelling units, or appurtenant structures may be constructed within a minimum of fifty feet (50) of the top of the bluff.

B. Notwithstanding the foregoing, lawn structures and open and/or screened porches and decks attached to single-family home, multiple-family home, multiple-family dwelling units and appurtenant structures may be located within the fifty foot (50) setback.

(1) Soil Erosion Control. A soil erosion control plan must be submitted to the Zoning Administrator before grading or construction begins on any lot affected by the regulations of this ordinance.

(2) Water Runoff. The final design of a building site shall include necessary steps to disperse all rainwater in order to minimize erosion on the site and the added affect to adjacent or surrounding properties.

C. There shall be no structural construction in the Bluff Protection Area except for governmental public projects, public utilities, and fencing. There shall be no filling or excavating of land in the Bluff Protection Area except for permitted extraction pits and governmental public projects.

6. General Regulations. The following requirements shall be imposed on all development in the Bluff Protection Area:

A. No extraction pits shall be located within the Bluff Protection Area without permission from the City.

B. Grading and filling within the Bluff Protection Area, shall comply with the following conditions:

(1) No more than one-third (1/3) of the surface area of a lot shall be devoid of vegetative ground cover at any time.

(2) Temporary ground cover such as mulch shall be used and permanent cover such as sod shall be planted as soon as possible.

(3) Fill shall be stabilized according to accepted engineering standards.

(4) Methods, such as silt fences, hay bales, etc., must be used to minimize soil erosion and to trap sediments before they reach any surface water features.

(5) Alterations of topography will only be allowed if they are accessory to permitted uses and do not adversely affect adjacent or nearby properties.

C. Clear cutting is prohibited within the Bluff Protection Area, except to remove the minimum amount of vegetation necessary for placing utilities and structures or except pursuant to a forester approved Forest Management Plan.

D. Select cutting or alteration of vegetation is allowed within the Bluff Protection Area subject to the following standards:

(1) Limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed however, removal of more than thirty (30%) percent of existing trees greater than six (6) inches in diameter at four (4) feet in height is prohibited.

(2) Trees that are diseased or unsafe may be removed.

(3) Natural vegetation within the Bluff Protection Area shall be restored insofar as feasible after any construction project in the Bluff Protection Area.

(4) Vegetation alterations necessary for the construction of structures and sewage treatment systems are exempt from the vegetation alteration standards.

E. Erosion control plans and storm water discharges shall be in accordance with the regulations of the Iowa Department of Natural Resources.

F. No person may conduct a mining or quarry activity or expand a mining or quarry activity within fifty (50) feet of the toe or top of a bluff or in a Bluff Protection Area.

(Section 165.47 – Ord. 630-18 – Oct. 18 Supp.)

165.48 BALCONIES, CANOPIES, AND AWNINGS. It is unlawful for a person to erect or maintain a balcony over any sidewalk without first obtaining approval from the Historic Preservation Commission and a special exception from the Zoning Board of Adjustment. Balconies shall be constructed in compliance with a blueprint showing it to be compatible with the building to which it is attached and embodying the historic characteristics of the district. Balconies must have at least a ten (10) foot clearance measured from the

sidewalk to the bottom of the balcony and must be cantilevered from the building wall. No support posts resting on the sidewalk or City right-of-way will be permitted. Balconies shall be set back from side property lines at least three (3) feet and shall not extend out from the front of the building more than four (4) feet. Canopies shall not be permitted. Awnings shall be permitted as long as they do not extend out from the front of the building more than three (3) feet. Existing canopies shall be considered a non-conforming use per Code Section 165.19. ***(Ord. 645-19 – Nov. 19 Supp.)***

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SCHEDULES OF DISTRICT REGULATIONS

A-1 LIMITED AGRICULTURAL A-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Agriculture, horticulture, dairy farming, livestock farming, poultry farming, general farming, and other agricultural activities	None
2. Single-family dwellings	2 spaces per unit
3. Parks, playgrounds or playfields	5 spaces for each acre developed for active usage
4. Fairgrounds	25 spaces plus 1 space for every 4 seats in the main stadium or auditorium
5. Cemetery or mausoleum	None
6. Elementary or secondary school	1 space for each classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
7. Churches and temples	1 space for every 4 seats in the main auditorium
8. Golf courses and country clubs except miniature courses or driving ranges operated for a profit	3 spaces per green or 1 space for every 100 square feet of floor area, whichever is greater
9. Community meeting or recreation building	1 space for every 50 square feet of floor area

PERMITTED ACCESSORY USES AND STRUCTURES

1. Farm buildings incidental to agricultural uses.
2. Private garages.
3. Private swimming pools and tennis courts.
4. Private greenhouses not operated for commercial purposes.
5. Uses and structures clearly incidental and necessary to the permitted principal use or structures of the district, not involving the conduct of business on the premises, except home occupations located on the same lot or a consolidated lot under the same ownership. ***(Ord. 586-15)***
6. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
7. Solar Collectors. ***(Ord. 627-18 – Jul. 18 Supp.)***

A-1 LIMITED AGRICULTURAL A-1

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.39 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Stables and kennels, provided the facility is at least 300 feet from any dwelling unit other than that of the owner.
2. Railroads and public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty five feet (25'), and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
3. Communications station and tower provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to their full height, that the height and location shall not interfere with the operation of any airport or landing strip, and that one (1) parking space per employee and one (1) space for each vehicle by the facility be provided.
4. Recreational Vehicle Parks. ***(Ord. 563-12)***

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
Area ..... 20,000 square feet Width ..... 125 feet The lot area shall be increased by such amount as determined necessary by the County Board of Health to provide an adequate absorption field for a septic tank installation. Where a lot is served by a public or community water system and sanitary sewer system, the minimum lot area may be reduced to 15,000 square feet and the width to 100 feet.	Dwellings and Other Non-Institutional Uses: Front: ..... 35 feet Rear: ..... 30 feet Side: ..... 10 feet Street side, corner lot ..... 30 feet Schools, Churches, or Other Public or Institutional Buildings: Front: ..... 40 feet Rear: ..... 40 feet Side: ..... 30 feet Street side, corner lot ..... 35 feet	35 feet or 2½ stories

A-1 LIMITED AGRICULTURAL A-1

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed three square feet in area.
2. Church or public bulletin boards not to exceed twelve (12) square feet in area.
3. Temporary signs advertising the lease or sale of the premises not to exceed thirty-two (32) square feet in area.
4. No billboards are allowed in an A-1 area.
5. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall promptly be removed.
6. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer.
7. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit.

SPECIAL REQUIREMENTS

1. No Construction Compliance Certificate shall be issued for a dwelling in the A-1 Limited Agricultural District for any parcel of land that is designated for commercial or industrial uses on the Future Land Use Plan of the City.

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R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT R-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Parks, playgrounds or playfields	5 spaces for each acre developed for active usage

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garages.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purposes.
4. Uses and structures clearly incidental and necessary to the permitted principal use or structures of the district, not involving the conduct of business on the premises, except home occupations, located on the same lot or a consolidated lot under the same ownership. ***(Ord. 586-15)***
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.
7. Satellite dishes.
8. A detached building shall be located a minimum of five (5) feet from the principal structure, and thirty (30) feet from the front property line.
9. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear set-back regulations.
10. Garages opening onto the alley shall have a rear yard of eighteen (18) feet.
11. A permitted accessory structure on a consolidated lot shall be constructed of like material and architecture as the primary structure, shall not be larger than the primary structure, and shall occupy no more than 25% of the consolidated lot. ***(Ord. 577-14)***

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.39 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Hospitals, sanitariums, rest, nursing homes; homes for orphan and aged on sites of one acre or more; off-street parking and yards comparable for other institutional uses of this ordinance to be provided.
2. Group housing, public housing developments.
3. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
4. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
5. Two-family dwellings.

R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT R-1

6. Condominiums, townhouses/rowhouses, zero lot line townhouses. ***(Ord. 530-09)***
7. Bed and Breakfast Operations. ***(Repealed by Ordinance No. 667-21 – May 21 Supp.)***
8. Recreational vehicle parks. ***(Ord. 563-12)***
9. Consolidated lots. ***(Ord. 577-14)***

SPECIAL REQUIREMENTS

1. All new structures constructed or placed in R-1 Districts shall have a minimum width of twenty four (24) feet and a minimum length of twenty four (24) feet as measured at the narrowest points, excluding porches, garages and accessory buildings.

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
Dwellings: Area ..... 9,600 square feet Width..... 80 feet All new residential lots shall be served by a public sewer and water system. Condominiums, Townhouses/Rowhouses: Area: 12,000 square feet for 3 unit plus 1,200 square feet for each additional unit Width: 100 feet Zero lot line townhouses: Area: 1,800 square feet per unit lot. Width: 40 feet. Total Area: The total area for each structure consisting of laterally attached zero lot line townhouses shall be determined by multiplying the number of zero lot line townhouses comprising the structure by 7,500 square feet. The total area includes the unit lot area and the common area. ***(Ord. 530-09)***	Dwellings and Other Non-Institutional Uses: Front:.....30 feet Rear:.....30 feet Side: one-story .....8 feet two stories or more.....10 feet Street side, corner lot .....25 feet Schools, Churches, or Other Public or Institutional Buildings: Front:.....40 feet Rear:.....40 feet Side: .....25 feet Street side, corner lot .....30 feet Zero lot line townhouses (including common area owned by the association of zero lot line townhouses owners): Front:.....20 feet Rear:.....20 feet Side: One story.....10 feet Two story .....20 feet Street side, corner lot .....20 feet ***(Ord. 530-09)***	

R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT R-1

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area.
2. Identification signs and home occupation signs not to exceed twelve (12) square feet in area.
3. Church or public bulletin boards not to exceed twelve (12) square feet in area.
   a. Illumination of all signs shall be indirect, non-intermittent lighting.
   b. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five feet in front of the main building.
   c. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall promptly be removed.
   d. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere, with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer.
   e. Any sign, permanent or temporary, larger than six (6) square feet shall require a sign permit.
4. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet area.

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R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT R-2

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Parks, playgrounds or playfields	5 spaces for each acre developed for active usage
3. Elementary or secondary school	1 space per classroom and office plus one space for every 6 seats in the main auditorium or stadium

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purposes.
4. Uses and structures clearly incidental and necessary to the permitted principal use or structures of the district, not involving the conduct of business on the premises, except home occupations, located on the same lot or a consolidated lot under the same ownership. ***(Ord. 586-15)***
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.
7. A detached building shall be located a minimum of five (5) feet from the principal structure, and fifteen (15) feet from the front property line.
8. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear set-back regulations.
9. Garages opening onto the alley shall have a rear yard of five feet.
10. A permitted accessory structure on a consolidated lot shall be constructed of like material and architecture as the primary structure, shall not be larger than the primary structure, and shall occupy no more than 25 percent of the original town lot the structure is located on. ***(Ord. 462-03)***

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.39 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Hospitals, sanitariums, rest, nursing homes; homes for orphan and aged on sites of one (1) acre or more; off-street parking and yards comparable for other institutional uses of this ordinance to be provided.
2. Group housing, public housing developments.
3. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.

R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT R-2

4. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
5. Two-family dwellings.
6. Condominiums, townhouses/rowhouses, zero lot line townhouses.
7. Bed and Breakfast Operations. ***(Repealed by Ordinance No. 667-21 – May 21 Supp.)***
8. Satellite dishes.
9. Consolidated Lots. ***(Ord. #462-03)***
10. Churches and Temples. ***(Ord. #485-06)***

SPECIAL REQUIREMENTS

1. All new structures constructed or placed in R-2 Districts shall have a minimum width of 24 feet and a minimum length of 24 feet as measured at the narrowest points, excluding porches, garages and accessory buildings.

R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT R-2

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
(Special Yard Requirements for the Original Town Lots) Single-Family dwellings: Area..... 5,000 square feet Width.....50 feet Two-Family dwellings: Area..... 5,000 square feet Width.....50 feet Condominiums, Townhouses/Rowhouses: Area: 7,500 square feet for 3 unit plus 1,000 square feet for each additional unit Width: 75 feet Zero Lot Line Townhouses: Area: 1,200 sq. ft. per unit lot. Width: 30 feet Total Area: The total area for each structure consisting of laterally attached zero lot line townhouses shall be determined by multiplying the number of zero lot line townhouses comprising the structure by 4,000 square feet. The total area includes the unit lot area and the common area. ***(Ord. 530-09)***	Dwellings and Other Non-Institutional Uses: Front: ..... 15 feet Rear:..... 5 feet Side: one-story..... 5 feet two stories or more ..... 6 feet Street side, corner lot ..... 12 feet ***(Ord. 700-23 – Feb. 23 Supp.)*** Schools, Churches, or Other Public or Institutional Buildings: Front: ..... 25 feet Rear:..... 25 feet Side: ..... 8 feet Street side, corner lot ..... 20 feet	2½ stories or 35 feet

R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT R-2

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area.
2. Identification signs and home occupation signs not to exceed six (6) square feet in area.
3. Church or public bulletin boards not to exceed twelve (12) square feet in area.
   a. Illumination of all signs shall be indirect, non-intermittent lighting.
   b. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building.
   c. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall promptly be removed.
   d. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere, with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer.
   e. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit.
4. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet area.

R-3 MIXED RESIDENTIAL DISTRICT R-3

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Two-family dwelling	2 spaces per unit
3. Condominiums, Townhouses/Rowhouses, Zero Lot Line Townhouses ***(Ord. 530-09)***	2 spaces per unit
4. Multiple family dwelling	2 spaces per unit
5. Community meeting or recreation building	1 space for every 100 square feet of floor area
6. Parks, playground or playfield	5 spaces for each acre developed for active usage
7. Elementary or secondary school	1 space per classroom and office plus one space for every 6 seats in the main auditorium or stadium
8. Day nurseries/centers	1 space plus 1 space for each employee
9. Churches and temples	1 space for every 4 seats in the main auditorium
10. Funeral parlor	1 space for every 4 seats in the main chapel
11. Group housing, public housing developments	1 space per unit
12. Rooming or boarding house	1 space for every 2 beds
13. Bed and Breakfast Operations ***(Repealed by Ordinance No. 667-21 – May 21 Supp.)***	1 space per bedroom
14. Hospital and Medium Clinics	8 spaces per facility

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purposes.
4. Uses and structures clearly incidental and necessary to the permitted principal use or structures of the district, not involving the conduct of business on the premises, except home occupations, located on the same lot or a consolidated lot under the same ownership. ***(Ord. 586-15)***
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.
7. A detached building shall be located a minimum of five (5) feet from the principal structure, and fifteen (15) feet from the front property line.
8. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear set-back regulations.
9. Garages opening onto the alley shall have a rear yard of five (5) feet.
10. A permitted accessory structure on a consolidated lot shall be constructed of like material and architecture as the primary structure, shall not be larger than the primary structure, and shall occupy no more than 25 percent of the original town lot the structure is located on. (***Ord. 462-03)***

R-3 MIXED RESIDENTIAL DISTRICT R-3

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.39 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Sanitariums, rest, nursing homes and convalescent homes for orphan and aged on sites of one (1) acre or more; off-street parking and yards comparable for other institutional uses of this ordinance to be provided.
2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
3. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
4. Consolidated Lots. ***(Ord. 462-03)***
5. Non-Profit Education and/or Cultural Centers. ***(Ord. 573-13)***

SPECIAL REQUIREMENTS

1. All new structures constructed or placed in R-3 Districts shall have a minimum width of twenty-four (24) feet and a minimum length of twenty four (24) feet as measured at the narrowest points, excluding porches, garages and accessory buildings.

R-3 MIXED RESIDENTIAL DISTRICT R-3

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
Single-Family dwellings: Area..... 5,000 square feet Width.....50 feet Two-Family dwellings: ***(Ord. 361-93)*** Area..... 5,000 square feet Width.....50 feet Multi-Family dwellings, Condominiums, Townhouses/Rowhouses: ***(Ord. 361-93)*** Area: 7,500 square feet for 3 unit plus 1,000 square feet for each additional unit Width: 75 feet Zero Lot Line Townhouses: Area: 1,200 sq. ft. per unit lot. Width: 30 feet Total Area: The total area for each structure consisting of laterally attached zero lot line townhouses shall be determined by multiplying the number of zero lot line townhouses comprising the structure by 4,000 square feet. The total area includes the unit lot area and the common area. ***(Ord. 530-09)***	Dwellings and Other Non-Institutional Uses: Front: ..... 15 feet Rear:..... 5 feet Side: one-story ..... 5 feet two stories or more ..... 6 feet Street side, corner lot ..... 12 feet ***(Ord. 700-23 – Feb. 23 Supp.)*** Schools, Churches, or Other Public or Institutional Buildings: Front: ..... 25 feet Rear:..... 25 feet Side: ..... 8 feet Street side, corner lot ..... 20 feet	2½ stories or 35 feet

R-3 MIXED RESIDENTIAL DISTRICT R-3

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed three square feet in area.
2. Identification signs and home occupation signs not to exceed six (6) square feet in area.
3. Church or public bulletin boards not to exceed twelve (12) square feet in area.
   a. Illumination of all signs shall be indirect, non-intermittent lighting.
   b. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building.
   c. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall promptly be removed.
   d. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere, with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer.
   e. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit.
4. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet area.

R-4 MOBILE HOME PARK DISTRICT R-4

The R-4 Mobile Home Park District is established to accommodate mobile home parks where their use will be compatible with existing and indicated future development.

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family units	2 spaces per unit
2. Two-family units	2 spaces per unit
3. Parks and recreation area not operated for profit	5 spaces for each acre developed for active usage
4. Community meeting or recreation building not operated for profit	1 space for every 100 square feet of floor area
5. Nursery schools and day care centers	3 spaces plus 1 space for each employee
6. Laundromat	1 space per 300 square feet of floor area

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garages.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purposes.
4. Uses and structures clearly incidental and necessary to the permitted principal use or structures of the district, not involving the conduct of business on the premises, except home occupations, located on the same lot or a contiguous lot under the same ownership. ***(Ord. 586-15)***
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.
7. A detached building shall be located a minimum of five feet from the principal structure, and 15 feet from the front property line.
8. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear set-back regulations.
9. Garages opening onto the alley shall have a rear yard of five feet.

R-4 MOBILE HOME PARK DISTRICT R-4

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.39 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Hospitals, sanitariums, rest, nursing and convalescent homes; homes for orphan and aged on sites of one (1) acre or more; off-street parking and yards comparable for other institutional uses of this ordinance to be provided.
2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty five (25) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
3. Group housing, public housing developments.
4. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
5. Satellite dishes.

<table>
<tr><th>MINIMUM LOT AREA AND WIDTH</th><th>MINIMUM REQUIRED FRONT, SIDE AND REAR YARD</th><th>MAXIMUM HEIGHT</th></tr>
<tr><td rowspan="4">Mobile homes:
Area ..... 3,500 square feet
Width ..... 35 feet

Permanent single-family unit:
Area ..... 5,000 square feet
Width ..... 50 feet

Permanent Two-family unit:
Area ..... 9,600 square feet
Width ..... 80 feet</td><td>Front: ..... 10 feet
Rear: ..... 5 feet
Side: ..... 10 feet</td><td>2 stories
or 20 feet</td></tr>
<tr><td>MINIMUM YARD REQUIREMENTS FOR PERMANENT-BUILD HOMES</td><td>MAXIMUM HEIGHT FOR PERMANENT-BUILD HOMES</td></tr>
<tr><td>Front: ..... 15 feet
Rear: ..... 5 feet
Side: one story ..... 5 feet
two stories or more ..... 6 feet</td><td>35 feet</td></tr>
</table>

R-4 MOBILE HOME PARK DISTRICT R-4

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area.
2. Identification signs and home occupation signs not to exceed six (6) square feet in area.
3. Church or public bulletin boards not to exceed twelve (12) square feet in area.
   a. Illumination of all signs shall be indirect, non-intermittent lighting.
   b. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five feet in front of the main building.
   c. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall promptly be removed.
   d. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere, with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer.
   e. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit.
4. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet area.

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C-1 HIGHWAY COMMERCIAL DISTRICT C-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Automotive display, sales, service, and repair	1 space for every 300 square feet of sales, service, or office floor area
2. Dry cleaners or laundry	
3. Monument and marker display and sales	
4. Greenhouse and plant nursery	1 space per 100 square feet of floor area
5. Restaurant, nightclub, café or tavern	
6. Dance hall and skating rink	
7. Drive-in eating and drinking establishment	
8. Bowling alley	5 spaces for each lane or alley
9. Drive-in bank	4 spaces for each teller window
10. Motel, hotel	1 space per unit
11. Dwelling unit above a store or shop	1 space per unit
12. Bus terminal	6 spaces plus one off-street loading space for each bus serving the terminal
13. Funeral parlor	1 space for every 4 seats in the main auditorium
14. Farm implement display, sales, service or repair	1 space for each employee plus 1 space for each vehicle used by the industry
15. Public utilities but not including storage or maintenance yards and buildings	
16. Boats, motors, travel trailers and mobile home display, sales, service and repair	1 space for every 100 square feet of sales, services, and office floor area
17. Retail businesses	
18. Personal service and repair shops	
19. Business and professional offices and studios	
20. Laboratories or research establishments	
21. General administrative offices	
22. Community meeting or recreation building	
23. Animal hospital or kennel	
24. Recycling drop boxes	
25. Private storage garages ***(Ord. No. 417-97)***	No off-street parking required

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal use or structures of this district.
2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district.
3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

C-1 HIGHWAY COMMERCIAL DISTRICT C-1

SPECIAL EXCEPTION USES AND STRUCTURES

1. No outside storage shall be permitted for rental storage facilities.
2. Bed and Breakfast. ***(Repealed by Ordinance No. 667-21 – May 21 Supp.)***
3. Mobile vendors. ***(Repealed by Ordinance No. 626-18 – Jul. 18 Supp.)***
4. The enlargement, expansion and/or alteration of a residential use or structure which has existed in this district for a period of at least twenty (20) years upon a finding by the Board of Adjustment that such enlargement, expansion and/or alteration will not diminish the potential use of the land or structure for the permitted uses described above. (***Ord. 428-98)***
5. Temples and churches per Ord. # 500-07. (Parking restriction of 1 space for every 5 seats available in church.)
6. Mini-Storage/Self-Storage, except within one hundred (100) feet of the nearest Highway 52 right-of-way. ***(Ord. 577-14)***
7. Solar Collectors. ***(Ord. 627-18 – Jul. 18 Supp.)***

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
Commercial Uses: None	(Ord. 436-99): Front:.....15 feet Side street, corner lot: .....15 feet Side: .....8 feet No side or rear yard except where apartments are above a store or shop, in which case a rear yard of 10 feet is required. Lots adjacent to an A or R District: A side yard and rear yard of 10 feet in addition to the 15 feet for front yard.	2½ stories or 35 feet

C-1 HIGHWAY COMMERCIAL DISTRICT C-1

PERMITTED SIGNS

1. Trade, business or industry identification signs provided that they:
   a. Do not exceed twenty-five (25) feet in height.
   b. Are not within twenty-five (25) feet of an A or R District.
   c. Do not overhang the public right-of-way except those signs which project not more than one (1) foot beyond the front face or integral part of the building other than identification signs of less than two square feet in area.
   d. Are not within twenty-five (25) feet of a highway intersection or highway structure.
   e. Do not exceed sixty-four (64) square feet.
2. Billboards are not allowed in a C-1 area.
3. No sign shall be located in, overhang or project into required yards.
4. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed, and the surrounding area restored to a condition free rom refuse and rubbish.
5. Any sign not conforming to the provision of this ordinance shall be made to conform or be removed within three (3) years after the adoption of this ordinance.
6. Signs which do not resemble any traffic signs, signal, or device. Revolving beacons are prohibited.
7. Any signs, permanent or temporary, larger than six square feet shall require a sign permit.

SPECIAL REQUIREMENTS

1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site.
2. Exterior storage other than the display of finished products for retail sale shall be enclosed by a six (6) foot high fence or suitable landscape planning, the design or type of which shall be approved by the Zoning Administrator, and which will screen the stored materials from the view of adjacent public streets, places of public assembly, parks, recreation areas, and residential properties. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the property. ***(Ord. 653-20 – Feb. 20 Supp.)***

C-1(A) HIGHWAY COMMERCIAL DISTRICT (A) C-1(A)

The regulations for this district are identical to the C-1 Highway Commercial District, provided, however, the following provided principal use and structure is permitted: "26. Ground floor living quarters for owner and caretaker up to 25% of total square footage."

(C-1(A) – Ord. 732-25 – Dec. 25 Supp.)

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C-2 GENERAL OFFICE AND RETAIL DISTRICT C-2

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Dry cleaners or laundry	
2. Clubs and lodges	
3. Retail businesses	
4. Personal service and repair shops (does not include auto, farm, or truck repair)	
5. Businesses and professional offices and studios	
6. Medical, dental, chiropractic clinics	
7. Restaurant, nightclub, café, or tavern	
8. Public buildings and utilities but not including storage or maintenance yards or buildings	
9. Parking lots ***(Ord. 514-08)***	
10. Plumbing and heating sales, service and repair shops	
11. Hotels and Motels ***(Ord. 653-20 – Feb. 20 Supp.)***	Two off-street parking spaces for permitted residential uses. ***(Ord. 526-09)***
12. Printing, publishing, and engraving	
13. Dance or music schools	
14. Commercial amusements	
15. Wholesale display and salesroom	
16. Lumber yard or building material sales yard	
17. Community meeting or recreation building	
18. Dwelling unit above a store or shop	
19. Basement dwelling unit below a store or shop ***(Ord. 407-96)***	
20. Daycare centers and preschools ***(Ord. 415-97)***	
21. (Repealed by Ordinance No. 652-20 – Feb. 20 Supp.)	
22. Ground floor residential use limited to 70% of total sq. ft. (+/- 5% to accommodate existing floor plan) located only in the rear of structure. ***(Ord. 733-25 – Jan. 26 Supp.)***	

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal use or structures of this district.
2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district.
3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
4. (Repealed by Ordinance No. 652-20 – Feb. 20 Supp.)
5. Garage, private. ***(Ord. 514-08)***
6. Solar Collectors. ***(Ord. 627-18 – Jul. 18 Supp.)***

C-2 GENERAL OFFICE AND RETAIL DISTRICT C-2

SPECIAL EXCEPTION USES AND STRUCTURES

1. No outside storage shall be permitted.
2. Garages, public and garages, storage. ***(Ord. 514-08)***
3. The enlargement, expansion and/or alteration of a residential use or structure which has existed in this district for a period of at least twenty (20) years upon a finding by the Board of Adjustment that such enlargement, expansion and/or alteration will not diminish the potential use of the land or structure for the permitted uses described above. ***(Ord. 428-98)***
4. Balconies over sidewalks as described in Sections 136.20 and 165.47. ***(Ord. 645-19 – Nov. 19 Supp.)***
5. Automotive display, sales, and service not exceeding twenty thousand (20,000) square feet in total footprint, with outdoor display comprising no more than fifty percent (50%) of the total footprint. ***(Ord. 642-19 – Nov. 19 Supp.)***
6. Bed and Breakfast/Bath Inn or Bed and Breakfast/Bath Home. ***(Repealed by Ord. 667-21 – May 21 Supp.)***

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
Commercial Uses: No minimum	Commercial Uses: None, except where a residential use exists on the property (see Ord. No. 486-06), a rear yard of 20 feet shall be provided and where adjacent to an R District, a front or side yard of 10 feet and a rear yard of 20 feet shall be provided. ***(Ord. 642-19 – Nov. 19 Supp.)***	4 stories or 50 feet

PERMITTED SIGNS

1. Advertising signs, trade, business or industry identification signs provided that:
   a. Freestanding signs shall not exceed twenty-five (25) feet in height and sixty-four (64) square feet in area per face.
   b. Signs attached to a building and shall not be less than ten (10) feet above ground level.
   c. No projecting or wall-mounted sign shall exceed sixty-four (64) square feet in area or more than one (1) square foot per foot of building whichever is smaller.
2. No sign shall be located in, overhang or project into a required yard.
3. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse or rubbish.
4. Signs, which do not resemble any traffic sign, signal, or device. Revolving beacons are prohibited.

C-2 GENERAL OFFICE AND RETAIL DISTRICT C-2

PERMITTED SIGNS (Continued)

5. Any sign, permanent or temporary, larger than six (6) square feet shall require a sign permit.
6. No billboards are allowed in the C-2 area.

SPECIAL REQUIREMENTS

1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site. [See Section 165.11(11)]
2. Exterior storage other than the display of finished products for retail sale shall be enclosed by a six (6) foot high fence or suitable landscape planning, the design or type of which shall be approved by the Zoning Administrator, and which will screen the stored materials from the view of adjacent public streets, places of public assembly, parks, recreation areas, and residential properties. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the property. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site. ***(Ord. 653-20 – Feb. 20 Supp.)***
3. Any projecting balcony constructed into the public right-of-way in the C-2 District must have at least a 10-foot clearance from the sidewalk to the bottom of the balcony and be cantilevered from the wall. No support posts resting on the right-of-way will be permitted.

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M-1 INDUSTRIAL PARK DISTRICT M-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Manufacturing and processing uses that are wholly contained within a building and create no offensive noise, dust, odor, or vibration	1 space for every 2 employees, plus 1 space for each vehicle used by the industry
2. Wholesaling and warehousing uses but not including the bulk storage of liquid fertilizer or petroleum products under pressure	
3. Truck and freight terminal	
4. Laboratories or research establishments	
5. General administrative offices	
6. (Repealed by Ord. 627-18 – Jul. 18 Supp.)	1 space for each employee, plus 1 space for each vehicle used by the industry
7. Sexually oriented businesses as described in Chapter 123	One (1) parking space must be maintained for every one hundred (100) feet of floor area

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental to the permitted principal use or structures of this district.
2. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
3. (Repealed by Ord. 627-18 – Jul. 18 Supp.)
4. Solar Collectors. ***(Ord. 627-18 – Jul. 18 Supp.)***

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.39(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Concrete products manufacture and central mixing and proportioning plant; fertilizer manufacture or blending; iron and steel fabrication; provided that such use is located not closer than 500 feet to any existing dwelling unit or any park, school, church or place of public assembly; that it is located so that prevailing winds will not cause dust, smoke or odors to create a nuisance for developed properties in the vicinity; that one (1) parking space for each employee and one (1) space for each vehicle used by the industry be provided and at least one (1) loading space shall be provided for each 10,000 square feet of floor area.
2. Bulk storage of liquid fertilizer and petroleum products under pressure provided that such uses shall not be located within 500 feet of any existing dwelling, park, school or place of public assembly; and that it is located so that prevailing winds will not cause fumes, odors, or gases to be carried toward developed properties in the vicinity, that one parking space for each employee and one (1) space for each vehicle or trailer used by the industry be provided.

M-1 INDUSTRIAL PARK DISTRICT M-1

3. Communications station and tower provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to the full height, that the height and location shall not interfere with the operation of any airport or landing strip, and that one (1) parking space per employee and one (1) space for each vehicle used by the facility be provided.
4. No outside storage shall be permitted for rental storage facilities.
5. All required yards should be open landscaped area not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site.

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
None	Front:.....25 feet Rear:.....25 feet Side: .....20 feet Side street, corner lot .....25 feet	None

PERMITTED SIGNS

1. Temporary signs advertising the sale or lease of the premises not to exceed 32 square feet in area;
2. Trade, business or industry identification signs for the firm located on the site provided that:
   a. Freestanding signs shall not exceed 150 square feet in area or 25 feet in height.
   b. Signs mounted flush on the wall of a building.
   c. Overhanging signs, except to a building may project above the height of the building.
   d. Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.
3. All signs shall be maintained in a neat and presentable condition and in the event their use shall become illegible or their use shall cease, they shall be promptly removed and the area restored to a condition free from refuse or rubbish.
4. Signs which do not resemble any traffic sign, signal, or device. Revolving beacons are prohibited.
5. Any sign, permanent or temporary, larger than six square feet shall require a sign permit.
6. No billboards are allowed in the M-1 area.

M-1 INDUSTRIAL PARK DISTRICT M-1

SPECIAL REQUIREMENTS

1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site.
2. Exterior storage other than the display of finished products for retail sale shall be enclosed by a six (6) foot high fence or suitable landscape planning, the design or type of which shall be approved by the Zoning Administrator, and which will screen the stored materials from the view of adjacent public streets, places of public assembly, parks, recreation areas, and residential properties. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the property. ***(Ord. 653-20 – Feb. 20 Supp.)***
3. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site.

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M-2 INDUSTRIAL DISTRICT M-2

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Manufacturing and processing uses	1 space for every 2 employees, plus 1 space for each vehicle used by the industry
2. Animal hospital or kennel	1 space for every 200 square feet of sales, service, or office floor area
3. Wholesaling and warehousing including the bulk storage of liquid fertilizer or petroleum products under pressure	1 space for each employee, plus 1 space for each vehicle used by the industry
4. Farm implement display, sales, and repair	
5. Lumber yard and building material sales and storage	
6. Ttruck and freight terminal	
7. Truck display, sales, repair and storage	
8. Grain storage bins	
9. Grain elevator and feed mill	
10. Welding and repair shop	
11. Tool, die, gauge and machine shops	
12. Public utilities including storage and maintenance yards	
13. Automobile paint and body shops	
14. Plumbing, heating, air conditioning and sheet metal shops	
15. Processing and handling of cheese, butter, and other milk products	
16. Fertilizer manufacturing or blending	
17. Iron and steel fabrication	
18. (Repealed by Ord. 627-18 – Jul. 18 Supp.)	
19. Recycling drop boxes	
20. Recycling Plant/Community Recycling Center	
21. Sexually oriented businesses as described in Section 123	One (1) parking space must be maintained for every one hundred (100) feet of floor area
All uses shall provide at least one loading space for every 10,000 square feet of floor area.	

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental to the permitted principal use or structures of this district.
2. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
3. (Repealed by Ord. 627-18 – Jul. 18 Supp.)
4. Solar Collectors. ***(Ord. 627-18 – Jul. 18 Supp.)***

M-2 INDUSTRIAL DISTRICT M-2

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.39(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Stockyards, rending works, loading pens, buying stations and/or sale barns and yards, commercial feedlots, and commercial poultry raising, provided that it is not closer than one-fourth mile to any dwelling unit other than that of the owner or operator, or any park, school, church or place of public assembly; that the provisions of drainage, sanitation, waste disposal, and fly control are approved by the Local Health Officer, that it is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; that one (1) parking space for each employee and one (1) space for each vehicle used by the industry be provided.
2. Auto wrecking and junkyards provided that the front yard be maintained as an open space free of weeds and debris; that the site be enclosed with a six-foot high fence or a suitable landscape planting that will screen the operation from the view of adjacent public streets and places of public assembly, parks, recreation areas and residential properties; and that a minimum of one (1) parking space for each employee and one (1) space for each vehicle used by the facility be provided.
3. The enlargement, expansion and/or alteration of a residential use or structure which has existed in this district for a period of at least twenty (20) years upon a finding by the Board of Adjustment that such enlargement, expansion and/or alteration will not diminish the potential use of the land or structure for the permitted uses described above. ***(Ord. 428-98)***
4. Bulk storage of liquid fertilizer and petroleum products under pressure provided that such uses shall not be located within 500 feet of any existing dwelling, park, school or place of public assembly; and that is located so that prevailing winds will not cause fumes, odors or gases to be carried toward developed properties in the vicinity; that one (1) parking space for each employee and one (1) space for each vehicle or trailer used by the industry be provided.
5. Concrete products manufacture and central mixing and proportioning plant; fertilizer manufacture or blending; iron and steel fabrication; provided that such use is located not closer than 500 feet to any existing dwelling unit or any park, school, church or place of public assembly; that it is located so that prevailing winds will not cause dust, smoke or odors to create a nuisance for developed properties in the vicinity; that one parking space for each employee and one (1) space for each vehicle used by the industry be provided and at least one (1) loading space shall be provided for each 10,000 square feet of floor area.
6. No outside storage shall be permitted for rental storage facilities.
7. Communications station and tower provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to the full height and location shall not interfere with the operation of any airport or landing strip, and that one parking space per employee and one space for each vehicle used by the facility be provided.

M-2 INDUSTRIAL DISTRICT M-2

SPECIAL EXCEPTION USES AND STRUCTURES (Continued)

8. Mobile vendors. ***(Repealed by Ord. 626-18 – Jul. 18 Supp.)***

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
None	Front: ..... 15 feet Rear:..... 0 feet Side: ..... 0 feet Side street, corner lot ..... 25 feet Where adjacent to an R District, a side or rear yard of 10 feet shall be provided.	None

PERMITTED SIGNS

1. Temporary signs advertising the sale or lease of the premises not to exceed 32 square feet in area;
2. Trade, business or industry identification signs for the firm located on the site provided that:
   a. Freestanding signs shall not exceed 150 square feet in area or 25 feet in height.
   b. Signs mounted flush on the wall of a building.
   c. Overhanging signs, attached to a building may project above the height of the building.
   d. Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.
3. All signs shall be maintained in a neat and presentable condition, and in the event that they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free from refuse and debris.
4. Signs which do not resemble any traffic sign, signal, or device. Revolving beacons are prohibited.
5. Any sign, permanent or temporary, larger than six square feet shall require a sign permit.

SPECIAL REQUIREMENTS

1. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any junk, debris or waste material be permitted to accumulate on the site.

M-1(A) INDUSTRIAL PARK DISTRICT (A) M-1(A)

The regulations for this District are identical to M-1 INDUSTRIAL PARK DISTRICT, provided, however, the following provided principal use and structure is permitted: "8. Rental Storage Facilities"

(Ord. 637-19 – Aug. 19 Supp.)

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EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 165.05 of these zoning regulations and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
323-90	May 21, 1990	497-07	May 7, 2007
324-90	June 4, 1990	503-07	October 1, 2007
338-91	May 6, 1991	508-07	December 17, 2007
339-91	May 6, 1991	513-08	June 16, 2008
341-91	June 3, 1991	525-09	August 3, 2009
364-93	May 3, 1993	535-10	April 5, 2010
366-93	July 6, 1993	558-12	September 10, 2012
376-93	October 4, 1993	564-12	October 1, 2012
383-94	June 6, 1994	569-13	June 3, 2013
388-94	October 3, 1994	570-13	June 3, 2013
393-95	June 5, 1995	574-13	October 7, 2013
411-96	October 7, 1996	593-16	January 4, 2016
413-96	December 2, 1996	600-16	June 27, 2016
414-96	December 2, 1996	608-17	February 6, 2017
420-97	May 5, 1997	637-19	June 10, 2019
424-98	May 18, 1998	638-19	June 10, 2019
425-98	May 18, 1998	644-19	September 9, 2019
426-98	May 18, 2998	656-20	February 10, 2020
427-98	July 6, 1998	665-21	April 12, 2021
432-99	September 29, 1999	668-21	July 12, 2021
433-99	September 29, 1999	669-21	July 12, 2021
434-99	October 20, 1999	673-21	September 13, 2021
446-01	March 5, 2001	682-21	October 11, 2021
448-01	April 2, 2001	709-24	February 12, 2024
449-01	April 2, 2001	710-24	February 12, 2024
450-01	June 4, 2001	712-24	May 13, 2024
453-01	December 3, 2001	726-25	April 14, 2025
455-02	April 1, 2002	728-25	July 14, 2025
456-02	May 6, 2002	730-25	September 8, 2025
457-02	May 6, 2002	734-25	December 8, 2025
458-02	December 7, 2002	735-25	December 8, 2025
459-03	January 6, 2003	743-26	April 13, 2026
461-03	April 7, 2003		
476-05	June 6, 2005		
489-06	August 7, 2006		
493-07	March 5, 2007		

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 PURPOSE. The purpose of this chapter is to secure coordination of subdivisions of land and extensions of streets; to promote proper standards for development of land, utilities and streets; to promote health and the general welfare; to facilitate the adequate provisions for transportation, water supply, sewage treatment, storm drainage and other public improvements and services in areas of new development throughout the City, all in accordance with a comprehensive plan.

166.02 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined.

1. "Alley" means a permanent public service way or right-of-way designed to provide a second means of access to abutting property.

2. "Auditor" means the County Auditor of Clayton County, Iowa.

3. "Building line" means a line established in a plat as a restrictive covenant beyond which no building may be placed. The building lines need not correspond to the front, side or rear yard requirements established in the Zoning Ordinance, and where they do not, the most restrictive requirement will control.

4. "Commission" means the Planning and Zoning Commission of the City.

5. "Cul-de-sac" means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

6. "Easement" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

7. "Final plat" means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the County Recorder.

8. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and Commission for consideration.

9. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership on July 3, 1972.

10. "Street" or "road" means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place or other appropriate designation.

11. "Thoroughfare" means a street intended for cross-country or through traffic. This classification includes arterial extensions and arterial extension collectors as defined by the Iowa functional classification system.

12. "Collector street" means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators. This classification includes trunk extensions, trunk collector extensions, municipal arterials and municipal collectors as defined by the Iowa functional classification system.

13. "Residential street or road" means a street used primarily for access to abutting property. This classification includes municipal service streets as defined by the Iowa functional classification system.

14. "Right-of-way" means the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.

15. "Subdivider" means any person who shall lay out, for the purpose of sale or development, any subdivision or part hereof, as defined herein, either for said person alone or others.

16. "Subdivision" means the division of a separate tract of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development, or if a new road is involved, any division of a parcel of land.

166.03 PLATTING REQUIRED. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot or lots, acreage or

suburban lots within the City or, pursuant to Section 354.9 of the Code of Iowa, within two (2) miles from the corporate limits shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

166.04 FEES. Each preliminary plat submitted for approval shall be accompanied by a fee of ten dollars ($10.00), which shall be credited to the General Fund of the City.

166.05 VARIANCES. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

166.06 ENFORCEMENT. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. Plat Invalid. No plat or subdivision in the City or within two (2) miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.

2. Building Permits. No more than two (2) building permits shall be issued for each separate tract existing on July 3, 1972, unless the tract shall have been platted in accordance with the provisions contained herein.

3. Public Improvements or Maintenance. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements or other services in any area that has been subdivided after July 3, 1972, unless the subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.

4. Sale of Lots. ***(Deleted by Ordinance No. 552-11 – Dec. 11 Supp.)***

166.07 AMENDMENTS. This chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

166.08 PRELIMINARY PLATTING PROCEDURE.

1. Preparation of Plat. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared containing the information specified herein, and shall file three (3) copies and a reproducible sepia or tracing of the plat with the Clerk.

2. Referral to Commission. The Clerk shall immediately transmit two (2) copies of the preliminary plat to the Commission for study and recommendation.

3. Commission Review. The Commission shall examine the plat as to its compliance with this chapter and the comprehensive plan of the City and shall have thirty (30) days to submit a recommendation to the Council. The owner or developer, however, may agree to an extension of time not to exceed sixty (60) days. A copy of the recommendation shall be forwarded to the owner or developer.

4. Council Action. The Council, upon receipt of the Commission's recommendation or after thirty (30) days or an approved extension thereof, shall have passed, shall by resolution grant approval of or reject the preliminary plat. If the preliminary plat is rejected, the Council will advise the owner or developer of any changes which are desired or should have consideration before approval will be given. Approval of the preliminary plat by the Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

166.09 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat shall contain the following information:

1. A location map showing:

   A. The subdivision name;

   B. An outline of the area to be subdivided;

   C. The existing streets and public or community utilities, if any, on adjoining property; and

   D. North point and scale.

2. A preliminary plat of the subdivision drawn to the scale of fifty (50) feet to one (1) inch provided that if the resulting drawings would be over thirty-six (36) inches in the shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used, said preliminary plat to show:

A. Legal description, acreage and name of proposed subdivision;

B. Name and address of owner;

C. Name of person who prepared the plat, and the date thereof;

D. Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision;

E. Location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas;

F. Tract boundary lines showing dimensions, bearings, angles and references to known lines or bench marks;

G. Names of adjacent property owners;

H. Layout of proposed blocks (if used) and lots, including the dimensions of each, and the lot and block number in numerical order;

I. A statement concerning the location and approximate size and capacity of utilities proposed to be installed;

J. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater;

K. Grades of proposed streets;

L. Proposed building lines;

M. A cross-section of the proposed streets showing the roadway location, the type and width of surfacing, type of drainage and other improvements to be installed;

N. The location of proposed wells and/or water mains and sewage disposal system if a public or community system is used;

O. The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures;

P. North point and graphic scale; and

Q. Layout of lots showing approximate dimensions and number;

R. A statement or plan regarding methods and/or techniques for controlling soil erosion during construction and development of the subdivision.

166.10 FINAL PLAT PROCEDURE.

1. Preparation of Plat. The owner or developer of any tract of land to be subdivided shall cause a final plat to be prepared containing the information specified herein and shall file three (3) copies and a reproducible sepia or tracing of the plat with the Clerk.

2. Submission. A final plat shall be submitted within twelve (12) months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.

3. Filing. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the Clerk, County Auditor and County Recorder along with such other certifications and instruments as may be required by law.

4. Area Considerations. In order to promote continuity between subdivisions of land under the same ownership, the subdivider shall submit a preliminary plat of the entire tract showing the general layout of streets and lots together with the topography, tree moves and other pertinent features necessary to properly evaluate the effect of the proposed development on the remainder of the tract.

166.11 FINAL PLAT REQUIREMENTS. The final plat shall meet the following specifications:

1. It may include all or only part of the preliminary plat.

2. The plat shall be drawn to the scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing would be over thirty-six (36) inches in the shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used.

3. The final plat shall contain the following:

A. Accurate boundary lines with dimensions and angles which provide a survey of the tract closing with an error of not more than one (1) foot in three thousand (3,000) feet;

B. Accurate references to known or permanent monuments giving the bearing and distance from some corner of a congressional division of the County;

C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;

D. Accurate metes and bounds description of the boundary;

E. Street names;

F. Complete curve notes for all curves included in the plat;

G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;

H. Lot numbers and dimensions;

I. Block numbers, if used;

J. Accurate dimensions and proposed use for any property to be dedicated or reserved for public, semi-public or community use;

K. Building lines and dimensions;

L. Location, type, material and size of all monuments and markers;

M. Name of the subdivision;

N. Name and address of owner and subdivider;

O. North point, scale and date;

P. Certification by a registered land surveyor of the State;

Q. Certification of dedication of streets and other public property;

R. Easements necessary for the orderly development of the land and the purpose of the easement clearly stated.

S. A covenant requiring the construction and installation of sidewalks as described at 166.20. ***(Ord. 529-09 – Dec. 09 Supp.)***

4. The final plat shall be accompanied by the following instruments:

A. A certified statement from the owner and spouse, if any, that the subdivision as it appears on the plat is with said owners' free consent and is in accordance with the desires of the proprietor and spouse;

B. One of the following:

(1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications, or

(2) A surety bond with the City which will insure the City that the improvements will be completed by the subdivider or property owner within two (2) years after the official acceptance of the plat. The form and type of bond shall be approved by the City Attorney, and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus ten percent (10%) and the amount of the estimate must be approved by the Council. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same, or

(3) A petition by the developer to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.

If option (2) or option (3) above is chosen, the final plat shall state that the developer, the grantees, assignees and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.

C. Copy of all restrictive covenants to be attached to the lots of the subdivision.

5. The final plat shall also be accompanied by the following at the time it is presented for filing:

A. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An

affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

B. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

C. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

D. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

166.12 PLATS OUTSIDE CORPORATE LIMITS. Procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as set out for preliminary and final plats above; after completion of the approval by the Council, the subdivider then shall comply with the Clayton County, Iowa Subdivision Ordinance. The Commission shall have forty-five (45) days in which to take action on the plat but shall not act prior to receiving the recommendations of the Clayton County Planning and Zoning Commission, provided that such recommendations shall be received within thirty (30) days of referral. ***(Ord. 724-24 – Jan. 25 Supp.)***

166.13 STREETS AND ALLEYS. The minimum required design standards for streets and alleys are as follows:

1. Access to Lots. The street and alley layout shall provide access to all lots and parcels of land within the subdivision or provide access to a permanent easement which provides ingress and egress from a lot, lots or parcel of land within the subdivision to a street.

(Ord. 531-09 – Jan. 10 Supp.)

2. Jogs Restricted. Street jogs of less than 150 feet shall be avoided.

3. Cul-de-sacs. Cul-de-sacs shall not exceed 500 feet in length.

4. Grades. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

5. Continuation of Existing Streets. New subdivisions shall make provisions for continuation and extension of thoroughfares and collector streets and roads.

6. Dead Ends. No dead-end streets or alleys will be permitted except at subdivision boundaries.

7. Thoroughfares and Collector Streets. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof.

8. Residential and Minor Streets. Residential or minor streets shall be extended to the subdivision boundaries in order to provide access to adjoining properties where deemed necessary by the Council.

9. Alleys. Alleys shall not be permitted in residential areas but shall be provided in commercial and industrial areas.

10. Intersection Angles. Intersection of road centerlines shall be between 80 degrees and 100 degrees.

11. Intersections Limited. Intersection of more than two streets at a point shall not be permitted.

12. Parkways. Where parkways or special types of streets are proposed, the Commission may apply special standards for the design of such parkways or streets.

13. Names. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street.

14. Right-of-Way Width. The minimum rights-of-way shall be provided as follows:

A. Thoroughfares – 100 feet;

B. Collector streets – 70 feet;

C. Residential streets – 60 feet;

D. Cul-de-sacs – 110 feet in diameter;

E. Alleys – 20 feet.

15. Surface Width. Minimum width of surfacing to be provided shall be as follows:

A. Thoroughfare streets – 53 feet;

B. Collector streets – 41 feet;

C. Residential streets – 31 feet;

D. Cul-de-sacs – 85 feet in diameter;

E. Alleys – 20 feet;

F. Sidewalks – 4 feet.

16. Grades. No street grade shall be less than one-half (.5) of one percent (1%) and shall not exceed the following limits:

A. Thoroughfare streets – 6 percent;

B. Collector streets – 8 percent;

C. Residential streets – 10 percent.

166.14 BLOCKS. Block layout shall conform to the following:

1. Length. The length of blocks shall be not less than 500 feet and not more than 1,250 feet in length. Notwithstanding anything contrary herein, if the Zero Lot Line Townhouse concept is utilized exclusively in the block, the length of the blocks shall be not less than 200 feet.
(Ord. 531-09 – Jan. 10 Supp.)

2. Width. Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth and in no case shall the width be less than 220 feet, except where a single tier of double frontage lots parallels a limited access highway, a thoroughfare, drainage course, railroad or other barrier, the width shall not be less than 150 feet. Notwithstanding anything contrary herein, if the Zero Lot Line Townhouse concept is utilized exclusively in the block, the length of the blocks shall be not less than 200 feet. ***(Ord. 531-09 – Jan. 10 Supp.)***

3. Crosswalks. Crosswalks may be required in blocks over 700 feet long or in areas where curved streets require excessive out-of-distance travel. If required, they shall be constructed by the developer.

166.15 LOTS. Lot requirements are as follows:

1. Access. All lots shall abut on a street or upon a permanent easement for vehicular traffic which provides ingress and egress to a street. Corner lots which abut on a thoroughfare or collector street shall have a minimum radius of 15 feet at the intersection.
(Ord. 531-09 – Jan. 10 Supp.)

2. Side Lines. Side lines of lots shall approximate right angles to straight street lines and radial angles to curved street lines except where a variation will provide better lot layout.

3. Double Frontage. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event, a planting screen shall be provided along the rear of the lot.

4. Corner Lots. Corner lots shall be not less than 80 feet in width, and interior lots shall be not less than 70 feet in width at the building line.

166.16 IMPROVEMENTS REQUIRED. The subdivider shall construct and install the improvements described herein in accordance with detailed construction plans and specifications approved by the City and constructed to the Council's satisfaction.

166.17 SANITARY SEWERS. The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one of the following.

1. Public Collection System. Where reasonably available, the subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with the sanitary sewer system of the City. In such case the sewer system shall be approved by the Council and shall be designed and constructed in accordance with the municipal specifications.

2. Local or Community Treatment System. Where it is deemed by the City not to be practical to connect the subdivision sanitary sewer system to a municipal sewer, the subdivider shall install a local or community treatment system in accordance with the requirements of the Iowa Board of Health and the County Board of Health.

3. Private Disposal System. If it is demonstrated to the City that the above are not practical, the Council may, upon request, permit the subdivider to install on each lot, a septic tank and absorption field or other system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Ordinance. In no case, however, shall private disposal systems be permitted where rock, impervious clay or ground water is closer than thirty (30) inches to the surface of the ground.

166.18 WATER. The subdivider shall provide the subdivision with an approved water supply and distribution system in accordance with one of the following:

1. Public Water System. Where reasonably available, the subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall extend into and through the subdivision to the boundary lines, and which shall provide for a water connection to each lot, and shall be connected to a public or municipal water system.

2. Local or Community Water System. Where a public water system is deemed by the City not to be available, the subdivider shall install a local or community water supply and distribution system, including all necessary mains, valves, hydrants and other appurtenances, in accordance with the standards and requirements of the Iowa Board of Health and the County Board of Health.

3. Individual Water System. If it is demonstrated to the City that the above are not practical, the Council may, upon request, permit the subdivider to install individual wells on each lot, or other water system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Ordinance.

166.19 STORM DRAINS. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes and manholes to provide for the collection and removal of all surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.

166.20 SIDEWALKS. Sidewalks shall be constructed and installed on each lot in compliance with Chapter 136 of this Code of Ordinances, as follows:

1. Within thirty (30) days of substantial completion of the primary structure on the lot.

2. Upon any undeveloped lot at such time as eighty percent (80%) of the lots have been improved by the construction of the primary structure on the lot.

(Ord. 529-09 – Dec. 09 Supp.)

166.21 STREET SIGNS. The subdivider shall provide the subdivision with acceptable street signs at the intersection of all streets.

166.22 MARKERS. An iron rod not less than one-half (1/2) inch in diameter and twenty-four (24) inches in length shall be placed as follows:

1. Boundary. At the intersection of all lines forming angles in the boundary of the subdivision.

2. Block and Lot Corner. At block and lot corners and changes in direction of block and lot boundaries.

166.23 GRADING. All streets and alleys within the platted area which are being dedicated for public use shall be brought to the grade approved by the Council.

166.24 CURB AND GUTTER. Curb and gutter shall be installed on all streets in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with designs and specifications and at grades approved by the Council.

166.25 SURFACING. All streets being dedicated for public use shall be surfaced to the required width. Surfacing shall be Portland cement concrete or asphaltic concrete and shall be constructed in accordance with the design and specification, and at grades approved by the Council.

166.26 SPECIFICATIONS. The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

166.27 INSPECTION. The Council shall cause the installation of all improvements to be inspected to insure a compliance with the requirements of this chapter. The cost of said inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the City.

CHAPTER 167

PLATS OF SURVEY

167.01 Purpose
167.02 Definitions
167.03 Plats Filed With the Clerk
167.04 Plats Indexed

167.01 PURPOSE. The purpose of this Chapter is to provide the City information pertaining to the location of permanent monumentation for property and boundary lines of land parcels within the City limits.

167.02 DEFINITIONS. As used in this Chapter, unless context clearly indicates otherwise;

1. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including complete and accurate description of each parcel within the plat, prepared by a licensed professional land surveyor.

2. "Surveyor" means a licensed professional land surveyor who engages in the practice of land surveying pursuant to Chapter 542B.

167.03 PLATS FILED WITH THE CLERK. Every plat of survey of property in the City prepared by a licensed land surveyor shall be filed with the City Clerk by the surveyor, no later than thirty (30) days after the Plat has been recorded in the office of the Clayton County Recorder.

167.04 PLATS INDEXED. The City Clerk shall index the plats with reference to the original survey, plat, or subdivision, within which the property lies, by block and lot, or other tract division, as appropriate under the circumstances.

(Ch. 167 – Ord. 592-15 – Nov. 15 Supp.)

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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 follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of _____, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 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 follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of _____, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 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 follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of _____, Iowa, is repealed and the following adopted in lieu thereof:

> **99.02 RATE.** Each customer shall pay sewer service charges in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars ($10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 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 THE ALLEY LYING IN BLOCK TWO (2) RAILROAD ADDITION TO _____, IOWA

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. The alley lying in Block Two (2), Railroad Addition to _____, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 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 and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of _____, 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 and/or owner

_____
(Owner's Name)

_____, as provided by law.
(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

CITY OF GUTTENBERG

APPEAL TO THE ZONING BOARD OF ADJUSTMENT

Applicant: _____ Date: _____

Address: _____ Fee Receipt # _____

_____

Application is hereby made to the Zoning Board of Adjustment for:

_____ Administrative Review of ordinance Sec. 165.39(1)

_____ Special Exception to the ordinance Sec. 165.39(2)

_____ Variance from the ordinance requirements Sec. 165.39(3)

The purpose of this appeal is to permit: _____

_____

Legal description of the property affected: _____

_____

Lot of Tract Area: _____Estimated Cost: $_____

Front Yard Distance: _____ Zoning District: _____

Side Yard Distance(s) _____ Height Distance: _____

Rear Yard Distance: _____

Principal Use: _____

Accessory Use: _____

Other Information: _____

Attach supporting data required by Section 165.39(3)(A)(1-5).

Signed:

_____

(Applicant)

NOTICE TO APPLICANT

Section 165.39 of the Zoning Ordinance required the Applicant to submit the following information, which must accompany this Appeal before it can be considered by the Zoning Board of Adjustment.

****

For a SPECIAL EXCEPTION to the zoning ordinance:

1. A written application indicating the section of zoning ordinance under which the special exception is sought and stating the grounds on which it is requested.

****

For a VARIANCE from the zoning ordinance a written application demonstrating that:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

2. Literal interpretation of the provision of this ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

3. Special conditions and circumstances do not result from the actions of the Applicant.

4. Granting the variance requested will not confer on the Applicant any special privileges that is denied by the ordinance to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

165.39 BOARD OF ADJUSTMENT – POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of this chapter.

2. Special Exceptions; Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the board unless and until:

A. A written application for a special exception has been submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested, and

B. Notice shall have been given at least four days in advance of the public hearing on said application for the special exception by publication in a newspaper of general circulation in the City, and

C. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or attorney, and

D. The board shall have made a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and the board shall have determined that the granting of the special exception will not adversely affect the public interest. In granting any special exception, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter and punishable under Chapter 165. The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

E. The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.

3. Special Exceptions; Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the board unless and until:

F. A written application for a variance shall have been submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not

applicable to other lands, structures or buildings in the same district, and

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of right commonly enjoyed by other properties in the same district under the terms of this chapter, and

(3) That the special conditions and circumstances do not result from the action or actions of the applicant, and

(4) That granting the variance requested would not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance, and

(5) The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.

G. Notice of public hearing shall have been given as in Section 165.39(2)(B) above, and

H. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or by attorney, and

I. The board shall have made findings that the requirements of Section 165.39(3)(A) have been met by the applicant for a variance, and

J. The board shall further have made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure, and

K. The board shall further have made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

GUTTENBERG, IOWA

REQUEST FOR AMENDMENT TO THE ZONING ORDINANCE

Applicant _____ Date _____

Address _____ Application No. _____

_____ Phone _____

* *

To _____ build, _____ alter buildings or structures, or _____ to change the use of the land or structures at the following described premises:

_____

_____

The following change in the zoning ordinance is hereby requested:

_____ From present zoning classification of : _____

To the proposed zoning classification of : _____

_____ To amend the _____ test, or _____ district regulations as follows:

_____

_____

To permit the following improvement or use: _____

_____

_____

(See reverse side for additional requirements)

* *

I certify that the above information and that required by Section 126.46 as submitted herewith is, to the best of my knowledge, true and accurate.

Signed: _____
(Applicant)

NOTICE TO APPLICANT

Change of Zoning District Boundaries

Section 165.46 of the Zoning Ordinance required the applicant to submit the following information, which must accompany this application before it can be considered by the Planning and Zoning Commission and the City Council:

1. The legal description and local address of the property.
2. The present zoning classification and the zoning classification requested for the property.
3. The existing use and proposed use of the property.
4. The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
6. A plat showing the location, dimensions, and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads and other physical features.